

RECEIVEDJUN 30 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

United States of America ex rel.

ROOSEVELT DAVIS #N73889

(Full name and prison number)

(Include name under which convicted)

PETITIONER

vs.

ILLINOIS DEPARTMENT OF CORRECTIONS(Warden, Superintendent, or authorized
person having custody of petitioner)

RESPONDENT, and

(Fill in the following blank only if judgment
attacked imposes a sentence to commence
in the future)

ATTORNEY GENERAL OF THE STATE OF

(State where judgment entered)

CASE NO:

(Supplied by Clerk of this Court)

08CV3710

JUDGE LINDBERG

MAGISTRATE JUDGE SCHENKIER

Case Number of State Court Conviction:

05 CR 2672

PETITION FOR WRIT OF HABEAS CORPUS – PERSON IN STATE CUSTODY1. Name and location of court where conviction entered: CIRCUIT COURT OF COOK COUNTY, CHICAGO
ILLINOIS2. Date of judgment of conviction: NOVEMBER 8th 2005

3. Offense(s) of which petitioner was convicted (list all counts with indictment numbers, if known)

POSSESSION OF A CONTROLLED SUBSTANCE 05 CR 26724. Sentence(s) imposed: EIGHT YEARS

5. What was your plea? (Check one)

(A) Not guilty (X)

(B) Guilty ()

(C) Nolo contendere ()

If you pleaded guilty to one count or indictment and not guilty to another count or indictment, give details:

PART I -- TRIAL AND DIRECT REVIEW

1. Kind of trial: (Check one): Jury (X) Judge only ()
2. Did you testify at trial? YES (X) NO ()
3. Did you appeal from the conviction or the sentence imposed? YES (X) NO ()

(A) If you appealed, give the

- (1) Name of court: APPELLATE COURT 1st JUDICIAL DISTRICT 3rd DIVISION
- (2) Result: APPEAL DENIED
- (3) Date of ruling: NOVEMBER 28th 2007
- (4) Issues raised: STATES FAILURE TO ESTABLISH PROPER CHAIN OF CUSTODY, STATES FAILURE TO DISCLOSE EXCULPATORY EVIDENCE.

(B) If you did not appeal, explain briefly why not:

4. Did you appeal, or seek leave to appeal, to the highest state court? YES (X) NO ()

(A) If yes, give the

- (1) Result PETITION FOR LEAVE TO APPEAL WAS DENIED
- (2) Date of ruling: MAY 29th 2008
- (3) Issues raised: INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL, STATES FAILURE TO ESTABLISH PROPER CHAIN OF CUSTODY, STATES FAILURE TO DISCLOSE EXCULPATORY EVIDENCE.

(B) If no, why not: _____

5. Did you petition the United States Supreme Court for a writ of *certiorari*? Yes () No (X)

If yes, give (A) date of petition: _____ (B) date *certiorari* was denied: _____

106051

SUPREME COURT OF ILLINOIS
CLERK OF THE COURT
SUPREME COURT BUILDING
SPRINGFIELD, ILLINOIS 62701
(217) 782-2035

May 29, 2008

Mr. Roosevelt Davis
Reg. No. N-73889
East Moline Correctional Center
100 Hillcrest Road
East Moline, IL 61244

No. 106051 - People State of Illinois, respondent, v. Roosevelt
Davis, petitioner. Leave to appeal, Appellate
Court, First District.

The Supreme Court today DENIED the petition for leave to
appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court
on July 3, 2008.

106074

SUPREME COURT OF ILLINOIS
CLERK OF THE COURT
SUPREME COURT BUILDING
SPRINGFIELD, ILLINOIS 62701
(217) 782-2035

May 29, 2008

Mr. Roosevelt Davis
Reg. No. N-73889
East Moline Correctional Center
100 Hillcrest Road
East Moline, IL 61244

No. 106074 - People State of Illinois, respondent, v. Roosevelt Davis, petitioner. Leave to appeal, Appellate Court, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on July 3, 2008.

PART II - COLLATERAL PROCEEDINGS

1. With respect to this conviction or sentence, have you filed a post-conviction petition in state court?

YES () NO (X)

With respect to *each* post-conviction petition give the following information (use additional sheets if necessary):

A. Name of court: _____

B. Date of filing: _____

C. Issues raised: _____

D. Did you receive an evidentiary hearing on your petition? YES () NO ()

E. What was the court's ruling? _____

F. Date of court's ruling: _____

G. Did you appeal from the ruling on your petition? YES () NO ()

H. (a) If yes, (1) what was the result? _____

(2) date of decision: _____

(b) If no, explain briefly why not: _____

I. Did you appeal, or seek leave to appeal this decision to the highest state court?

YES () NO ()

(a) If yes, (1) what was the result? _____

(2) date of decision: _____

(b) If no, explain briefly why not: _____

2. With respect to this conviction or sentence, have you filed a petition in a state court using any other form of post-conviction procedure, such as *coram nobis* or habeas corpus? YES (X) NO ()

A. If yes, give the following information with respect to each proceeding (use separate sheets if necessary):

1. Nature of proceeding PETITION FOR RELIEF FROM JUDGEMENT
2. Date petition filed MARCH 13th 2007
3. Ruling on the petition PETITION WAS DENIED
3. Date of ruling JUNE 25th 2007
4. If you appealed, what was the ruling on appeal? APPEAL STILL PENDING
5. Date of ruling on appeal _____
6. If there was a further appeal, what was the ruling? _____
7. Date of ruling on appeal _____

3. With respect to this conviction or sentence, have you filed a previous petition for habeas corpus in federal court? YES () NO (X)

A. If yes, give name of court, case title and case number: _____

B. Did the court rule on your petition? If so, state

- (1) Ruling: _____
- (2) Date: _____

4. WITH RESPECT TO THIS CONVICTION OR SENTENCE, ARE THERE LEGAL PROCEEDINGS PENDING IN ANY COURT, OTHER THAN THIS PETITION?

YES (X) NO ()

If yes, explain: I AM CURRENTLY AWAITING APPEAL ON MY PETITION FOR RELIEF FROM JUDGEMENT WHICH APPELLATE ATTORNEYS ARE AWAITING TO FILE DUE TO NOT HAVING ALL OF THE RECORD.

PART III -- PETITIONER'S CLAIMS

1. State briefly every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. You may attach additional pages stating additional grounds and supporting facts. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds later.

BEFORE PROCEEDING IN THE FEDERAL COURT, YOU MUST ORDINARILY FIRST EXHAUST YOUR STATE COURT REMEDIES WITH RESPECT TO EACH GROUND FOR RELIEF ASSERTED.

(A) Ground one INNEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Supporting facts (tell your story briefly without citing cases or law):

My appellate counsel refused to argue on direct appeal the trial courts denial of my motion to quash arrest and suppress evidence. It was apparent from the record that Chicago police officer Ruben Briones had given testimony contrary to that which he gave under oath at an earlier grand jury hearing on January 20th 2005 which procured an indictment against me. This officer's testimony at the motion to quash hearing during direct examination differed from that which he infact gave under oath during cross examination. The court in its ruling stated that "I would agree that there was (see attached page with ground one continuation)

(B) Ground two INNEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL AND TRIAL COUNSEL

Supporting facts:

On August 4th 2005, trial counsel filed an oral motion for the subpoena of fingerprints from the large plastic bag the contained the recovered narcotics. This oral motion was granted by the court. From the cases onset, I had told defense counsel that at no time did I know that there was drugs in Mr. Martinez's car nor had I touched or possessed this bag of narcotics, contrary to the testimony of Chicago police officer(s). Defense counsel chose to against my decision to take me to trial without having secured the the fingerprint analysis which the court had in fact granted our motion for. Appellate counsel who was from the same office as my trial attorney(s) refused to argue this issue on direct appeal. Had trial counsel obtained this evidence prior to taking me to trial, it would have been useful evidence during the cross examining of the testifying officer(s). The result of the fingerprint analysis would not have resulted in my fingerprints being (see attached page with ground two continuation)

(C) Ground three INNEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Supporting facts:

The trial court on August 4th 2005 denied defense counsel's oral motion to subpoena the confidential informant that Chicago police officer Ruben Briones testified before a grand jury under oath as to having received information from regarding a narcotic transaction that was going to take place. This officer would repeat this testimony indept when he gave testimony during direct examination at my motion to quash arrest hearing on June 30th 2005. But when this officer would be questioned during cross examination, he testified that he in fact had not spoken to an informant himself at all.

(SEE attached page with ground three continuation)

(D) Ground four INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Supporting facts:

The prosecution before the start of and during the closing of my trial twice made reference to an informant having given police information in the presence of the jury on August 17th and 18th 2005. Prior to the start of my trial defense counsel had asked the court to grant defense's motion in limine preventing the prosecution from making reference to an informant or stating anything to the jury about an informant. In fact on one occassion the court sustained defense counsel's objection to the prosecutions statement to the jury about an informant/citizen providing police with information, (See attached page with ground four continuation)

2 Have all grounds raised in this petition been presented to the highest court having jurisdiction?

YES (X) NO ()

3. If you answered "NO" to question (16), state briefly what grounds were not so presented and why not:

(NOTE: Grounds five and six are continued on attached page(s) Ground seven also continued).

(Ground one continued)

NO reason the officers had for stopping the vehicle, but that is not how the officer testified that it went down. The officer testified that the vehicle was not stopped on western avenue. We all know that western avenue is a busy street". The court furthered stated that defense did have cause for impeachment against this officer regarding this officers earlier grand jury testimony. There is and was no reason appellate attorney should not have argued this issue on direct appeal. **(SEE ATTACHED MOTION TO QUASH ARREST AND SUPPRESS EVIDENCE HEARING TRANSCRIPTS). EXHIBIT A** Clearly the courts ruling was against the weight of the evidence presented at this hearing on June 30th 2005.

(Ground two continued)

On this large bag because I never had this bag in my possession. There is no way appellate counsel should have not addressed and argued this issue on direct appeal. **(SEE ATTACHED TRIAL TRANSCRIPT AND LETTER FROM APPELLATE DEFENDER DATED JUNE 4th 2007). EXHIBIT B**

(Ground three continued)

In fact this officer would testify during cross examination that he himself had no personal knowledge of this informant. The fact that this officers grand jury testimony led to me being indicted due to this informant issue, there should have been no way appellate counsel should not have argued this issue on direct appeal. The fact that my case had been dismissed during my preliminary hearing and the only way the case was brought back up was when the prosecution went before the grand jury with officer Briones testimony. I was in fact prevented from receiving a fair trial because both prosecutors and Chicago police Sgt. James O'Grady would make reference to an informant and having been provided with a description. It is likely that my appeal may have been granted had appellate counsel addressed this issue as well on direct appeal. **(SEE ATTACHED GRAND JURY TRANSCRIPT, AND TRIAL TRANSCRIPT, AND MOTION TO QUASH HEARING TRANSCRIPT) EXHIBIT C**

(Ground four continued)

the jury was informed by the court to disregard the prosecutions making of this now the second reference to an informant. Appellate counsel was aware from the record that the making of these statements contributed to my not receiving a fair trial. The mere fact that my earlier motion before another judge for the subpoena of the informant was denied clearly warranted appellate counsel arguing this issue on direct appeal. **(SEE ATTACHED TRIAL TRANSCRIPTS) EXHIBIT D**

(E) Ground five INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Supporting facts:

When the trial court on August 18th 2005 refused to inform the jury during jury instructions of Chicago police officer Ruben Briones previous testimony(s) which were completely opposite at two previous hearings, this aided in my being denied a fair trial. The jury should have certainly been made aware of this officers previous inconsistencies concerning his testimony. In fact trial counsel had requested before the start of my trial that the jury be informed of this and the trial court refused to inform them. The jury should have been given a clear picture of the law regarding the differences of this officer's testimony(s). In fact during deliberations the jury sent a note back to the court requesting to see officer Briones's supplemental arrest REPORTS which had came into question during my trial. The court denied the jury access to these reports. The fact that the jury inquired about reviewing this officers arrest reports showed that there were questions and concerns the jury had with regard to this officers testimony. This issue should have been raised on direct appeal by appellate attorney. (SEE ATTACHED TRIAL TRANSCRIPTS) EXHIBIT E

(F) Ground six INEFFECTIVE ASSISTANCE OF COUNSEL

Supporting facts:

The trial court as well as the appeals court refused to give proper review to the fact that the weight discrepancy with regards to the drugs recovered and those which arrived at the Illinois crime lab for testing on December 22nd 2004, had a bearing on my being found guilty. There was clearly something wrong in that the Chicago police officer Ruben Briones testified that he recovered and weighed the narcotics on a scale at the police station and that that weight was 250 grams. It was testified by Brian Stevenson from the state police crime lab that he received what he tested to be 110 grams of substance. This issue clearly was not given proper review by either court. (SEE ATTACHED TRANSCRIPTS, TRIAL)

(G) Ground seven INEFFECTIVE ASSIATANCE OF COUNSEL

Supporting facts:

The trial court and the appeals court failed to give proper review of a Chicago police arrest report which bore a Chicago police department tracking number. This report was found after my trial during pre-sentence investigation. This report stated that on the day of my arrest I was arrested and charged with being in possession of less than 15 grams of cocaine not 250 grams nor 110 grams as was testified to by Chicago police officer Ruben Briones and state police lab chemist Mr. Brian Stevenson. This report also bared the NAME OF TWO OF THE OFFICERS THAT TESTIFIED AT MY TRIAL. The court ruled against this evidence at my sentencing hearing on November 8th 2005, stating that it contained no narrative nor was it signed by anyone. The fact that it existed and could have been used to cross examine the officers at my trial was indeed meritable and should have been reviewed more thoroughly. Had this been done the result of my appeal may have been different. (SEE ATTACHED COPY OF ARREST REPORT, COPY OF OFFICIAL VERSION OF OFFENSE AND SENTENCING HEARING TRANSCRIPTS) EXHIBIT G

PART IV -- REPRESENTATION

Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (A) At preliminary hearing Frank Cece Jr. 53 W. Jackson St. Chicago Il 60604
- (B) At arraignment and plea Frank Cece Jr. "
- (C) At trial Ms. Stephanie Hirschboeck & Ms. Rosemary Costin 69 W. Washington St. Chi. Il
- (D) At sentencing Ms. Stephanie Hirschboeck & Ms. Rosemary Costin " 17thflr'
- (E) On appeal Mr. Bruce Landrum 69 W. Washington Chicago Il 60602 17th flr.
- (F) In any post-conviction proceeding _____
- (G) Other (state): _____

PART V -- FUTURE SENTENCE

Do you have any future sentence to serve following the sentence imposed by this conviction?

YES () NO (X)

Name and location of the court which imposed the sentence: _____

Date and length of sentence to be served in the future _____

WHEREFORE, petitioner prays that the court grant petitioner all relief to which he may be entitled in this proceeding.

Signed on: June 13th 2008
(Date)

Signature of attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct.

Rosevelt Davis
(Signature of petitioner)

#N73889

(I.D. Number)

100 Hillcrest Rd. East Moline Il. 61244
(Address)

Exhibit A

Exhibit A+C
For Grounds
1 & 3

Exhibit C

IN RE: PEOPLE VS. MIGUEL MARTINEZ,
ROOSEVELT DAVIS

GJ NO 2231

ARR DATE 2-9-05

05 CR 2672

BEFORE THE SPECIAL GRAND JURY OF COOK COUNTY,
JANUARY, 2005

TRANSCRIPT OF TESTIMONY TAKEN IN THE
ABOVE ENTITLED MATTER ON JANUARY 20, 2005.

PRESENT: MR. JAMES TOMASKA
ASSISTANT STATE'S ATTORNEY

REPORTED BY JOSEPH A. SZYBIST
CERTIFIED SHORTHAND REPORTER
ILLINOIS LICENSE NO. 084-1752

LIST OF WITNESSES:

OFFICER BRIONES

1 THE FOREPERSON: Raise your right hand,
2 please.

3 (Witness duly sworn.)

4 MR. TOMASKA: The People of the State of
5 Illinois are seeking a True Bill of Indictment
6 before the Special January Grand Jury Number 2231
7 against the defendants Miguel Martinez and
8 Roosevelt Davis who are charged with the following
9 offenses:

10 Defendant Martinez is charged with
11 delivery of a controlled substance, 100 or more
12 grams but less than 400 grams of cocaine.

13 Defendant Davis is charged with
14 possession of a controlled substance, 100 or more
15 grams but less than 400 grams cocaine.

16 The Grand Jury does have the right
17 to subpoena and question any person against whom
18 the State's Attorney is seeking a Bill of
19 Indictment, or any other person, and to obtain and
20 examine any documents or transcripts relevant to
21 the matter being prosecuted by the State's
22 Attorney.

23 OFFICER BRIONES,
24 having been first duly sworn, was examined and

1 testified as follows:

2 EXAMINATION BY

3 MR. TOMASKA:

4 Q. Officer, would you please state your
5 name, your star number and your current unit of
6 assignment.

7 A. Officer Ruben Briones, star 19024,
8 presently assigned to Unit 189 of the Chicago
9 Police Department.

10 Q. Officer, on December 16, 2004, at
11 approximately 2:10 p.m. were you on duty in the
12 area of 5402 North Western Avenue in Chicago, Cook
13 County, Illinois?

14 A. That's correct.

15 Q. Officer, were you there because you
16 received information that a narcotics transaction
17 was gonna happen at that location?

18 A. That's correct.

19 Q. And, officer, did you set up a
20 surveillance at that location?

21 A. Yes, I did.

22 Q. And did you observe defendant Davis
23 standing on the corner of that location for
24 approximately 15 minutes before a van pulled up.

1/2 which was driven by defendant Martinez?

2 A. That's correct.

3 Q. Did defendant Davis then enter that van
4 on the passenger's side?

5 A. Yes. he did.

6 Q. Did you approach that van and observe
7 defendant Martinez hand defendant Davis a large
8 clear plastic bag that contained white powder,
9 suspect cocaine?

10 A. That's correct.

11 Q. And did defendant Davis look in your
12 direction and open the glove compartment and
13 attempt to place that bag inside the glove
14 compartment?

15 A. Yes.

16 Q. Were both defendants then placed into
17 custody?

18 A. Yes.

19 Q. Was that plastic bag recovered from the
20 glove compartment and found to contain suspect
21 cocaine?

22 A. That's correct.

23 Q. Did you inventory that plastic bag and
24 send it to the Illinois State Police crime lab for

1 testing and analysis?

2 A. Yes, I did.

3 Q. To the best of your knowledge, officer,
4 did they report back to you that the total weight
5 of the contents of that plastic bag came to
6 110 grams and that that weight and that substance
7 tested positive for cocaine?

8 A. That's correct.

9 MR. TOMASKA: Are there any questions for
10 the officer?

11 THE FOREPERSON: No.

12 MR. TOMASKA: Thank you.

13 (Witness excused.)

14 (Whereupon the Grand Jury was
15 left alone to deliberate,
16 after which the following
17 proceedings were had.)

18 THE FOREPERSON: True Bill.

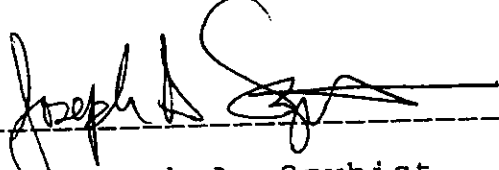
19 (Whereupon the above-entitled
20 cause was continued
21 for arraignment before
22 the Presiding Judge of
23 the Criminal Division.)
24

1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF C O O K)
4
5

6 I, Joseph A. Szybist, a Certified
7 Shorthand Reporter licensed to practice in the
8 State of Illinois, do hereby certify that I
9 reported in shorthand the proceedings had in the
10 hearing of the above entitled cause; that I
11 thereafter caused the foregoing to be transcribed
12 into typewriting, which I hereby certify is a true
13 and accurate transcript of the proceedings had
14 before the Grand Jury of Cook County.

15
16 
17 Joseph A. Szybist
18
19
20
21
22
23
24

OFFICIAL VERSION OF THE OFFENSE:

According to the Chicago Police Criminal History Report CB#16036653: The Defendant was arrested December 16, 2004 by Officer Mckenna of Dist. 020 of the Chicago Police Department and charged with PCS-Possession-Less Than 15 Grams-Cocaine. On August 18, 2005, the Defendant was found guilty of Possession-100 Grams cocaine in case number 05CR267202. The Defendant is scheduled to appear before the Honorable Judge Mary Margaret Brosnahan on September 20, 2005 for sentencing in case number 05CR267202.

DEFENDANT'S VERSION OF THE OFFENSE:

The Defendant stated that he was advised by his attorney to not discuss his version of the offense. He stated that he plans to file for a new trial.

SOCIAL HISTORY:

The Defendant Roosevelt Davis stated that he was born April 24, 1967 in Chicago, IL. to the union of Allen Yarbrough and Lillian Beard One of four children, the Defendant stated that he was raised by both parents (separate homes) and described his childhood as normal. He stated that his upbringing was church going and stern discipline. The Defendant stated that he was reared on the North Side of Chicago.

The Defendant reported a great relationship with his father who lives in Robinsonville, Ms. and is employed as a driver for a local casino. He stated that his father has failing health. He reported a "terrific" relationship with his mother who lives in Chicago and is in fair health. The Defendant reported a great relationship with his siblings.

The Defendant denied any family history of physical, sexual or emotional abuse. He stated that he was disciplined sternly and he denied any past or present DCFS involvement.

Upon his release from incarceration, the Defendant stated that he will reside at 1900 W. Pratt, 1st Fl., Chicago, IL with his fiancée Dawna Swanson. This investigator spoke with a Dawna Swanson who identified as the Defendant's fiancée. She stated that the Defendant will reside at the above address upon his release. She also corroborated with the Defendant's statements regarding his social history.

ARRR203

CHICAGO POLICE DEPARTMENT

Page 1 of 1

CPD-1.20C (REV. 4/87)

ARREST REPORT

Tracking No: 016036653		CB No: 016036653		Status: IDENT. CLEARED						
IR No: 706684		Name: DAVIS, ROOSEVELT		Arrest Date: 16:10 16-DEC-2004 Holding Facility: DISTRICT 020 LOCKUP						
DLN/ID No:		State:		SSN: 356-62-9609						
Date of Birth: 23-APR-1967		Sex: MALE		Scars/Marks:						
Age: 37		Race: BLACK		Eye Color: BROWN						
Place of Birth: ILLINOIS		Height: 506		Hair Color: BLACK						
Dependent Children? N		Weight: 170		Hair Style: BALD						
				Complexion: MEDIUM						
Location Code: 092 ALLEY				Occupation: UNEMPLOYED						
Address				Organization:						
Arrest: 5402 N WESTERN AVE, CHICAGO, IL 60625				Gang:						
Residence: 6104 N OAKLEY AVE, CHICAGO, IL 60659				Resisted Arrest? N						
Arrest Charges				Phone No						
Statute		Description		Beat						
720 ILCS 570.0/402-C		PCS - POSSESSION - LESS THAN 15 GRMS - COCAINE		2011						
				02413						
				Amended? N						
Injury Charges/Dispositions										
PD Charges/Dispositions										
				Associated Cases RD No						
				HK812324						
Employee Role		Star No	Emp No	Unit/Agency	Name	Furlough	Day Off	Court Key	Beat	Date
ST ARRESTING OFFICER		3942	9722	006	MC KENNA, S M	000	9	Q	6212	18:22 16-DEC-2004
ND ARRESTING OFFICER		19024	53003	009	BRIONES, R	000	4	I	6212	18:24 16-DEC-2004
BOOKUP KEEPER		9719	4406		MCCRAY, C	000	2	O		18:24 16-DEC-2004
FINGERPRINTED BY			38254		POST, T H	000	6			18:58 16-DEC-2004
PID Requested? N		Print Check Waived? N		Desired Court Date:						
PID No:		Time Printed: 18:26 16-DEC-2004		Desired Branch - Call:						
Property Receipt No:		Time Photographed: 18:36 16-DEC-2004		Court Sgt. to Handle? N						
Phone Number Called:		Time Fed:		Bond Date:						
Phone Called:		Cell No:		Bond Receipt No:						
Narrative:										

I solemnly, sincerely, and truly declare and affirm that the facts stated herein are accurate to the best of my knowledge.

Signature of First Arresting / Appearing Officer / Investigator: _____

Identify and describe all property or possible evidence recovered at the end of the Narrative in column form. Show exactly where found, when found, who found it and it's description (Include Property Inventory numbers). Every taken was verified for Operation Identification, include number at the end of Narrative. Offender's approximate description, if possible, should include name if known, nickname, sex, race code, age, height, weight, color eyes, hair, complexion, scars, marks, etc. If suspect is arrested, give name, sex, race code, age, C.B. or I.R. number, if known, and state "In Custody." All descriptions and statements in this entire report are approximations or summarizations unless indicated otherwise.

Narcotic & Gang Investigation Section Supplementary Report
CHICAGO POLICE-FOR USE BY B.I.S. PERSONNEL ONLY

HK812324

Offense Classification / Last Report			IUCR Code	Offense Reclassification / DNA			Revised IUCR	
Possession of a Controlled Subst./Powder Cocaine			2024	DNA				
Address of Occurrence		Type of Location	Location Code	Date of Occurrence	Time of Occurrence	Beat of Occ	Beat Assigned	
54 N. Western		Alley	092	16DEC2004	1410	2011	6212	
Victims	Victim's Name	Relation	Method Code	Method Assigned	Unit	Safe Method	If Residence / Where	
1	State of Illinois	024		Field	189	DNA	DNA	
Offenders	Offender's Name	Relation	Num Arrested	Arrest Unit	Adults	Juveniles	Fire	Gang Related
2			2	189	1	0	No	No

Update Information *See Narrative For Updated information

Victim Verified	Offender Verified	Property Verified	Circumstances Verified									
Victim Update	Offender Updated	Property Updated	Circumstances Updated									
STATUS				HOW CLEARED								
0 - Prog	1 - Sus	2 - Unf	3 - C/C	4 - C/O	5 - C/C/X	6 - C/O/X	7 - C/N/C	1 - Arrest	2 - Juv-Ct	3 - Ref Pros	4 - Comm Adj	5 - Other

EVENT NUMBER: 11884

R.D. NUMBER: HK812324

This Is A Narcotic & Gang Investigations Section Investigation Officer's Report By Beat 6212

OPERATION / MISSION #:

SNAP

OFFENDER(S):

IN CUSTODY-

#2- DAVIS, Roosevelt M/B/37 24Apr67,
506 hgt., 170 lbs., bald head 6104 N. Oakley

GANG AFFILIATION(S):

Offender #2-Denied

CHARGE(S):

Possession of a Controlled Substance

COURT BRANCH, DATE AND COURT OFFICER:

Br 57-2 on 27Jan05

POLICE PERSONNEL ON SCENE:

90.EXTRA COPIES REQ'D	91.DATE SUBMITTED	TIME	92.SUPERVISOR APPROV. STAR
	16 Dec 04		
93.REPORTING OFFICER-PRINT	94.SUPERVISOR COMMENTS	STAR	
			16DEC2004-1830

HK812324

EVIDENCE RECOVERED

Inv# [REDACTED] One (1) plastic bag containing suspect cocaine as recovered from glove compartment of offender #1's vehicle b [REDACTED]

Inv# [REDACTED] \$453.00 recovered from offender #1's person by [REDACTED]

TOTAL WEIGHT & STREET VALUE:

250 GRAMS \$31, 250.00

EVIDENCE OFFICER:

VEHICLE SEIZED:

One (1) 1996 Mercury Licence applied for [REDACTED]

NOTIFICATIONS:

OEC, 189 W/C

HISTORY OF INVESTIGATION: In summary, on stated date the undersigned received information [REDACTED] that a narcotics transaction would be taking place in the vicinity of 5400 N. Lincoln at approx. 1400 hours [REDACTED] stated that the subject facilitating the transaction would be a male Black subject, approx. 35 years old, 5'06 hgt. 180 lbs, with a shaved head. Based upon this information [REDACTED] At approx 1300 hours, [REDACTED] observed a male Black subject arrive driving a small dark Saturn sedan. This subject exited his vehicle and stood on the corner of Balmoral and Western for about fifteen minutes. The subject then began walking east on Balmoral to Western where he waited on the northwest corner of that location in the bus stop [REDACTED] was maintained upon this subject as he repeatedly made or received phone calls. Tat approx 1410 hours a 1996 Mercury Mystique with applied for licence plates pulled into the rear of 54 [REDACTED] N. Western and parked. The driver of this vehicle honked the horn and the male Black subject immediately turned in that direction and ran up to the car. The male Black subject then entered the vehicle and subjects were observed [REDACTED] inspecting some item. [REDACTED] notified team members and assist units to investigate and move in. [REDACTED] approached the vehicle and observed offender #1 hand to offender #2 a large plastic bag containing suspect cocaine. Offender #2 then looked up and saw [REDACTED] approaching. Offender #2 then opened the glove compartment and placed the cocaine inside. The subjects were removed from the vehicle and the substance recovered from the glove compartment. Both subjects were placed under arrest and transported with the evidence to 020 for processing.

PRE [REDACTED]

APPROVAL-SIGN OR INITIAL [REDACTED]

ILLINOIS STATE POLICE
Division of Forensic Services
Forensic Science Center at Chicago
1941 West Roosevelt Road
Chicago, Illinois 60608-1229
(312) 433-8000 (Voice) • 1-(800) 255-3323 (TDD)

Rod R. Blagojevich
Governor

December 22, 2004

Larry G. Trent
Director

RUBEN BRIONES 19024
CHICAGO POLICE DEPARTMENT UNIT 189
NARCOTICS SECTION
3340 WEST FULLMORE STREET
CHICAGO IL 60624

Laboratory Case #C04-056604
RD #HK812324


OFFENSE: Violation of Controlled Substances Act
SUSPECT: Roosevelt Davis

The following evidence was received by the Forensic Science Center at Chicago on December 21, 2004:
Inventory# 10452143

<u>LAB EXHIBIT</u>	<u>ITEM SUBMITTED</u>	<u>FINDINGS</u>
1	110.0 grams of white chunky substance from one item	Cocaine

730 ILCS 5/5-9-1.4(b) states that a criminal laboratory analysis fee of \$100 shall be imposed for persons adjudged guilty of an offense in violation of the Cannabis Control Act or the Illinois Controlled Substances Act.

Respectfully submitted,


Brian A. Stevenson
Forensic Scientist

1. NAME (LAST - FIRST - MIDDLE) DAVID ROOSEVELT		2. SEX M		3. RACE M		4. AGE 34		5. DATE OF BIRTH 24 APR 67	
6. C.I. NO. 16036653		7. ALIAS OR NICKNAME		8. DIST./RES. 020		9. HEIGHT 5'6"		10. WEIGHT 170	
11. HAIR BLK		12. HAIR STYLE BAL		13. EYES BRN		14. COMPLEXION MEU			
15. I.R. NO. 706684		16. RESIDENCE ADDRESS 6104 N. OAKLEY		17. DISTING. MARKS, SCARS, DISABILITIES, ETC. NLU		18. SOCIAL SECURITY NO. 356-62-9609			
19. Y.D. NO.		20. CITY - STATE CHGO IL		21. ZIP CODE 60625		22. HOME TELEPHONE () NONE		23. STATE/PLACE OF BIRTH CHGO	
24. RD NO. HK 812324		25. ADDRESS OF ARREST 54 N. WESTERN		26. BUSINESS NAME - ADDRESS UNEMPLOYED		27. CITY - STATE ()		28. BUSINESS TELEPHONE ()	
29. NO. ARRESTED 2		30. LOCATION CODE 092		31. BEAT OF ARREST 2011		32. DATE OF ARREST 16 DEC 04		33. TIME 1610	
34. DATE OF ARREST 16 DEC 04		35. TIME 1610		36. ARRESTEE TRANSPORTED TO UNIT 020		37. BY BEAT 20638		38. TIME 1620	
39. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> 32. WEAPON PISTOL - REVOLVER		33. OTHER (SPECIFY) KNIFE		34. PROPERTY INVENTORY NO(S) 10452143		35. FOR NARCOTIC ARREST <input type="checkbox"/> SUSPECT CANNABIS <input type="checkbox"/> SUSPECT CONTROLLED SUBSTANCE		36. APPROX. WT/ NO. PILLS 250GMS	
37. EST. STREET VALUE \$31,250.00		38. VEHICLE OF ARRESTEE 0		39. YEAR 0		40. MAKE N		41. MODEL N	
42. BODY STYLE A		43. COLOR A		44. STATE LICENSE NO. OR V.I.N.		45. DISPOSITION OF VEHICLE			
46. PERSON IN INVESTIGATIVE UNIT NOTIFIED BY REPORT		47. UNIT NOTIFIED UNIT 185		48. TIME		49. DOES ARRESTEE HAVE UNATTENDED DEPENDENT CHILDREN AT HOME <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		50. IF YES - NAME OF Y.D. MEMBER NOTIFIED - TIME	
51. NAME STATS OF ILL.		52. SEX MALE		53. RACE WHITE		54. AGE 34		55. HOME ADDRESS UNIT 185	
56. CITY - STATE CHGO IL		57. ZIP CODE 60625		58. TELEPHONE NO. ()		59. VICTIM INJURED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		60. IF YES - DESCRIBE INJURIES	
61. VICTIM HOSPITALIZED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		62. TREATED & RELEASED		63. HOSPITAL NAME		64. REFERENCES (CH - PAR.) 1720 ILLCS 570K40		65. OFFENSES PCS	
66. REFERENCES (CH - PAR.) 2		67. OFFENSES 6		68. DISPOSITIONS 7		69. REFERENCES (CH - PAR.) 3		70. OFFENSES 8	
71. DISPOSITIONS 4		72. REFERENCES (CH - PAR.) 5		73. OFFENSES 6		74. DISPOSITIONS 7		75. REFERENCES (CH - PAR.) 8	
76. OFFENSES 9		77. DISPOSITIONS 10		78. REFERENCES (CH - PAR.) 11		79. OFFENSES 12		80. DISPOSITIONS 13	
81. DISPOSITIONS 14		82. REFERENCES (CH - PAR.) 15		83. OFFENSES 16		84. DISPOSITIONS 17		85. REFERENCES (CH - PAR.) 18	
86. OFFENSES 19		87. DISPOSITIONS 20		88. REFERENCES (CH - PAR.) 21		89. OFFENSES 22		90. DISPOSITIONS 23	
91. DISPOSITIONS 24		92. REFERENCES (CH - PAR.) 25		93. OFFENSES 26		94. DISPOSITIONS 27		95. REFERENCES (CH - PAR.) 28	
96. OFFENSES 29		97. DISPOSITIONS 30		98. REFERENCES (CH - PAR.) 31		99. OFFENSES 32		100. DISPOSITIONS 33	
101. DISPOSITIONS 34		102. REFERENCES (CH - PAR.) 35		103. OFFENSES 36		104. DISPOSITIONS 37		105. REFERENCES (CH - PAR.) 38	
106. OFFENSES 39		107. DISPOSITIONS 40		108. REFERENCES (CH - PAR.) 41		109. OFFENSES 42		110. DISPOSITIONS 43	
111. DISPOSITIONS 44		112. REFERENCES (CH - PAR.) 45		113. OFFENSES 46		114. DISPOSITIONS 47		115. REFERENCES (CH - PAR.) 48	
116. OFFENSES 49		117. DISPOSITIONS 50		118. REFERENCES (CH - PAR.) 51		119. OFFENSES 52		120. DISPOSITIONS 53	
121. DISPOSITIONS 54		122. REFERENCES (CH - PAR.) 55		123. OFFENSES 56		124. DISPOSITIONS 57		125. REFERENCES (CH - PAR.) 58	
126. OFFENSES 59		127. DISPOSITIONS 60		128. REFERENCES (CH - PAR.) 61		129. OFFENSES 62		130. DISPOSITIONS 63	
131. DISPOSITIONS 64		132. REFERENCES (CH - PAR.) 65		133. OFFENSES 66		134. DISPOSITIONS 67		135. REFERENCES (CH - PAR.) 68	
136. OFFENSES 69		137. DISPOSITIONS 70		138. REFERENCES (CH - PAR.) 71		139. OFFENSES 72		140. DISPOSITIONS 73	
141. DISPOSITIONS 74		142. REFERENCES (CH - PAR.) 75		143. OFFENSES 76		144. DISPOSITIONS 77		145. REFERENCES (CH - PAR.) 78	
146. OFFENSES 79		147. DISPOSITIONS 80		148. REFERENCES (CH - PAR.) 81		149. OFFENSES 82		150. DISPOSITIONS 83	
151. DISPOSITIONS 84		152. REFERENCES (CH - PAR.) 85		153. OFFENSES 86		154. DISPOSITIONS 87		155. REFERENCES (CH - PAR.) 88	
156. OFFENSES 89		157. DISPOSITIONS 90		158. REFERENCES (CH - PAR.) 91		159. OFFENSES 92		160. DISPOSITIONS 93	
161. DISPOSITIONS 94		162. REFERENCES (CH - PAR.) 95		163. OFFENSES 96		164. DISPOSITIONS 97		165. REFERENCES (CH - PAR.) 98	
166. OFFENSES 99		167. DISPOSITIONS 100		168. REFERENCES (CH - PAR.) 101		169. OFFENSES 102		170. DISPOSITIONS 103	
171. DISPOSITIONS 104		172. REFERENCES (CH - PAR.) 105		173. OFFENSES 106		174. DISPOSITIONS 107		175. REFERENCES (CH - PAR.) 108	
176. OFFENSES 109		177. DISPOSITIONS 110		178. REFERENCES (CH - PAR.) 111		179. OFFENSES 112		180. DISPOSITIONS 113	
181. DISPOSITIONS 114		182. REFERENCES (CH - PAR.) 115		183. OFFENSES 116		184. DISPOSITIONS 117		185. REFERENCES (CH - PAR.) 118	
186. OFFENSES 119		187. DISPOSITIONS 120		188. REFERENCES (CH - PAR.) 121		189. OFFENSES 122		190. DISPOSITIONS 123	
191. DISPOSITIONS 124		192. REFERENCES (CH - PAR.) 125		193. OFFENSES 126		194. DISPOSITIONS 127		195. REFERENCES (CH - PAR.) 128	
196. OFFENSES 129		197. DISPOSITIONS 130		198. REFERENCES (CH - PAR.) 131		199. OFFENSES 132		200. DISPOSITIONS 133	
201. DISPOSITIONS 134		202. REFERENCES (CH - PAR.) 135		203. OFFENSES 136		204. DISPOSITIONS 137		205. REFERENCES (CH - PAR.) 138	
206. OFFENSES 139		207. DISPOSITIONS 140		208. REFERENCES (CH - PAR.) 141		209. OFFENSES 142		210. DISPOSITIONS 143	
211. DISPOSITIONS 144		212. REFERENCES (CH - PAR.) 145		213. OFFENSES 146		214. DISPOSITIONS 147		215. REFERENCES (CH - PAR.) 148	
216. OFFENSES 149		217. DISPOSITIONS 150		218. REFERENCES (CH - PAR.) 151		219. OFFENSES 152		220. DISPOSITIONS 153	
221. DISPOSITIONS 154		222. REFERENCES (CH - PAR.) 155		223. OFFENSES 156		224. DISPOSITIONS 157		225. REFERENCES (CH - PAR.) 158	
226. OFFENSES 159		227. DISPOSITIONS 160		228. REFERENCES (CH - PAR.) 161		229. OFFENSES 162		230. DISPOSITIONS 163	
231. DISPOSITIONS 164		232. REFERENCES (CH - PAR.) 165		233. OFFENSES 166		234. DISPOSITIONS 167		235. REFERENCES (CH - PAR.) 168	
236. OFFENSES 169		237. DISPOSITIONS 170		238. REFERENCES (CH - PAR.) 171		239. OFFENSES 172		240. DISPOSITIONS 173	
241. DISPOSITIONS 174		242. REFERENCES (CH - PAR.) 175		243. OFFENSES 176		244. DISPOSITIONS 177		245. REFERENCES (CH - PAR.) 178	
246. OFFENSES 179		247. DISPOSITIONS 180		248. REFERENCES (CH - PAR.) 181		249. OFFENSES 182		250. DISPOSITIONS 183	
251. DISPOSITIONS 184		252. REFERENCES (CH - PAR.) 185		253. OFFENSES 186		254. DISPOSITIONS 187		255. REFERENCES (CH - PAR.) 188	
256. OFFENSES 189		257. DISPOSITIONS 190		258. REFERENCES (CH - PAR.) 191		259. OFFENSES 192		260. DISPOSITIONS 193	
261. DISPOSITIONS 194		262. REFERENCES (CH - PAR.) 195		263. OFFENSES 196		264. DISPOSITIONS 197		265. REFERENCES (CH - PAR.) 198	
266. OFFENSES 199		267. DISPOSITIONS 200		268. REFERENCES (CH - PAR.) 201		269. OFFENSES 202		270. DISPOSITIONS 203	
271. DISPOSITIONS 204		272. REFERENCES (CH - PAR.) 205		273. OFFENSES 206		274. DISPOSITIONS 207		275. REFERENCES (CH - PAR.) 208	
276. OFFENSES 209		277. DISPOSITIONS 210		278. REFERENCES (CH - PAR.) 211		279. OFFENSES 212		280. DISPOSITIONS 213	
281. DISPOSITIONS 214		282. REFERENCES (CH - PAR.) 215		283. OFFENSES 216		284. DISPOSITIONS 217		285. REFERENCES (CH - PAR.) 218	
286. OFFENSES 219		287. DISPOSITIONS 220		288. REFERENCES (CH - PAR.) 221		289. OFFENSES 222		290. DISPOSITIONS 223	
291. DISPOSITIONS 224		292. REFERENCES (CH - PAR.) 225		293. OFFENSES 226		294. DISPOSITIONS 227		295. REFERENCES (CH - PAR.) 228	
296. OFFENSES 229		297. DISPOSITIONS 230		298. REFERENCES (CH - PAR.) 231		299. OFFENSES 232		300. DISPOSITIONS 233	
301. DISPOSITIONS 234		302. REFERENCES (CH - PAR.) 235		303. OFFENSES 236		304. DISPOSITIONS 237		305. REFERENCES (CH - PAR.) 238	
306. OFFENSES 239		307. DISPOSITIONS 240		308. REFERENCES (CH - PAR.) 241		309. OFFENSES 242		310. DISPOSITIONS 243	
311. DISPOSITIONS 244		312. REFERENCES (CH - PAR.) 245		313. OFFENSES 246		314. DISPOSITIONS 247		315. REFERENCES (CH - PAR.) 248	
316. OFFENSES 249		317. DISPOSITIONS 250		318. REFERENCES (CH - PAR.) 251		319. OFFENSES 252		320. DISPOSITIONS 253	
321. DISPOSITIONS 254		322. REFERENCES (CH - PAR.) 255		323. OFFENSES 256		324. DISPOSITIONS 257		325. REFERENCES (CH - PAR.) 258	
326. OFFENSES 259		327. DISPOSITIONS 260		328. REFERENCES (CH - PAR.) 261		329. OFFENSES 262		330. DISPOSITIONS 263	
331. DISPOSITIONS 264		332. REFERENCES (CH - PAR.) 265		333. OFFENSES 266		334. DISPOSITIONS 267		335. REFERENCES (CH - PAR.) 268	
336. OFFENSES 269		337. DISPOSITIONS 270		338. REFERENCES (CH - PAR.) 271		339. OFFENSES 272		340. DISPOSITIONS 273	
341. DISPOSITIONS 274		342. REFERENCES (CH - PAR.) 275		343. OFFENSES 276		344. DISPOSITIONS 277		345. REFERENCES (CH - PAR.) 278	
346. OFFENSES 279		347. DISPOSITIONS 280		348. REFERENCES (CH - PAR.) 281		349. OFFENSES 282		350. DISPOSITIONS 283	
351. DISPOSITIONS 284		352. REFERENCES (CH - PAR.) 285		353. OFFENSES 286		354. DISPOSITIONS 287		355. REFERENCES (CH - PAR.) 288	
356. OFFENSES 289		357. DISPOSITIONS 290		358. REFERENCES (CH - PAR.) 291		359. OFFENSES 292		360. DISPOSITIONS 293	
361. DISPOSITIONS 294		362. REFERENCES (CH - PAR.) 295		363. OFFENSES 296		364. DISPOSITIONS 297		365. REFERENCES (CH - PAR.) 298	
366. OFFENSES 299		367. DISPOSITIONS 300		368. REFERENCES (CH - PAR.) 301		369. OFFENSES 302		370. DISPOSITIONS 303	
371. DISPOSITIONS 304		372. REFERENCES (CH - PAR.) 305		373. OFFENSES 306		374. DISPOSITIONS 307		375. REFERENCES (CH - PAR.) 308	
376. OFFENSES 309		377. DISPOSITIONS 310		378. REFERENCES (CH - PAR.) 311		379. OFFENSES 312		380. DISPOSITIONS 313	
381. DISPOSITIONS 314		382. REFERENCES (CH - PAR.) 315		383. OFFENSES 316		384. DISPOSITIONS 317		385. REFERENCES (CH - PAR.) 318	
386. OFFENSES 319		387. DISPOSITIONS 320		388. REFERENCES (CH - PAR.) 321		389. OFFENSES 322		390. DISPOSITIONS 323	
391. DISPOSITIONS 324		392. REFERENCES (CH - PAR.) 325		393. OFFENSES 326		394. DISPOSITIONS 327		395. REFERENCES (CH - PAR.) 328	
396. OFFENSES 329		397. DISPOSITIONS 330		398. REFERENCES (CH - PAR.) 331		399. OFFENSES 332		400. DISPOSITIONS 333	
401. DISPOSITIONS 334		402. REFERENCES (CH - PAR.) 335		403. OFFENSES 336		404. DISPOSITIONS 337		405. REFERENCES (CH - PAR.) 338	
406. OFFENSES 339		407. DISPOSITIONS 340		408. REFERENCES (CH - PAR.) 341		409. OFFENSES 342		410. DISPOSITIONS 343	
411. DISPOSITIONS 344		412. REFERENCES (CH - PAR.) 345		413. OFFENSES 346		414. DISPOSITIONS 347		415. REFERENCES (CH - PAR.) 348	
416. OFFENSES 349		417. DISPOSITIONS 350		418. REFERENCES (CH - PAR.) 351		419. OFFENSES 352		420. DISPOSITIONS 353	
421. DISPOSITIONS 354		422. REFERENCES (CH - PAR.) 355		423. OFFENSES 356		424. DISPOSITIONS 357		425. REFERENCES (CH - PAR.) 358	
426. OFFENSES 359		427. DISPOSITIONS 360		428. REFERENCES (CH - PAR.) 361		429. OFFENSES 362		430. DISPOSITIONS 363	
431. DISPOSITIONS 364		432. REFERENCES (CH - PAR.) 365		433. OFFENSES 366		434. DISPOSITIONS 367		435. REFERENCES (CH - PAR.) 368	
436. OFFENSES 369		437. DISPOSITIONS 370		438. REFERENCES (CH - PAR.) 371		439. OFFENSES			

MOVIE IF ARRESTEE OUT OF & INTO ARREST/DETENTION FACILITY

	DATE	TIME	TURNED OVER TO/ RECEIVED FROM	STAR/ EMPL. NO.	REASON	LOCKUP KEEPER/ OTHER DEPT. MEMBER	STAR/ EMPL. NO.
OUT							
IN							
OUT							
IN							

RECORD OF INTERVIEWS IN LOCKUP

DATE	TIME	INTERVIEWER	STAR NO.	REASON	LOCKUP KEEPER/ OTHER DEPT. MEMBER	STAR/ EMPL. NO.

RECORD OF VISITORS TO ARRESTEE

DATE	TIME IN	TIME OUT	VISITOR'S NAME - ADDRESS - TELEPHONE	RELATIONSHIP	W. C.'S APPROVAL (SIGNATURE)

RECEIVING SCREENING RECORD FOR
ARRESTEE TO BE HELD IN LOCKUPREFER TO GUIDELINES FOR ARRESTEE SCREENING, CPD-11.523.
NOTE: ALL "YES" ANSWERS REQUIRE ACTIONDATE 16 DEC 04 TIME 1845

ARRESTEE'S NAME <u>DAVIS, ROOSEVELT</u>	C.B. NO. <u>16036053</u>	LOCKUP KEEPER'S NAME (PRINT) <u>MCCRAY</u>	STAR NO. <u>9719</u>
--	-----------------------------	---	-------------------------

LOCKUP KEEPER'S VISUAL CHECK

- | | YES | NO |
|---|-------------------------------------|-------------------------------------|
| 1. DOES ARRESTEE HAVE OBVIOUS PAIN OR INJURY? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. IS THERE OBVIOUS SIGN OF INFECTION? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. APPEARS TO BE UNDER THE INFLUENCE OF ALCOHOL/DRUGS | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. ARE THERE VISIBLE SIGNS OF ALCOHOL AND/OR DRUG WITHDRAWAL? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. DOES ARRESTEE APPEAR TO BE DESPONDENT? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. DOES ARRESTEE APPEAR TO BE IRRATIONAL? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. IS ARRESTEE CARRYING MEDICATION? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

LOCKUP KEEPER'S-ARRESTEE QUESTIONNAIRE

- | | YES | NO | REFUSED |
|---|-------------------------------------|-------------------------------------|--------------------------|
| 8. ARE YOU PRESENTLY TAKING ANY MEDICATION? (For what) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. (IF FEMALE) ARE YOU PREGNANT? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. IS THIS THE FIRST TIME YOU HAVE EVER BEEN ARRESTED? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 11. HAVE YOU EVER TRIED TO KILL YOURSELF OR DONE SERIOUS HARM TO YOURSELF? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 12.A. DO YOU HAVE ANY SERIOUS MEDICAL OR MENTAL PROBLEMS? (IF YES, specify problem under REMARKS) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 12.B. ARE YOU RECEIVING ANY TREATMENT? (If YES, specify under REMARKS) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

PERSON TO BE NOTIFIED IN CASE OF EMERGENCY - NAME

ADDRESS 1900 W. PRAIRIE TELEPHONE (847) 733-9100 RELATIONSHIP GIRLFRIEND

REMARKS ARRESTEE RELATES THAT HE USES AN INHALER FOR ASTHMA - HAS AN INHALER WITH PERSONAL BELONGINGS.

SPECIAL DISPOSITION
COMPLETE ONLY FOR ARRESTEES REFERRED OUT OR TO BE MONITORED

REFERRED TO (Specify)	PLACED IN ONE-PERSON CELL NO. (for communicable disease cases)	PLACED IN TWO OR MORE PERSON CELL NO. UNDER SPECIAL/CLOSE OBSERVATION (potential suicides)
-----------------------	---	--

NOTE: LOCKUP KEEPER MUST SIGN IN ALL INSTANCES

LOCKUP KEEPER'S SIGNATURE

RELEASE OF ARRESTEE FROM CUSTODY

FOR THE FOLLOWING REASON(S), I HAVE DETERMINED THERE IS NOT SUFFICIENT CAUSE TO FURTHER DETAIN/CHARGE THE ARRESTEE:

SIGNATURE - ARR. OFF./DETECTIVE STAR NO. UNIT APPROVED - W/ C - DETENTION FAC. - STAR NO. DATE-TIME RELEASED FROM CUSTODY

VIC CASE 1. OFFENSE - PRIMARY CLASSIFICATION 2. SECONDARY CLASSIFICATION 3. NO. NO. 1-UCR OFFENSE CODE
REPORT ☐ 1 GAMBLING ☐ 2 NARCOTICS ☐ 3 LIQUOR LAW VIOLATION
CHICAGO POLICE ☐ 4 PROSTITUTION ☐ 5 OBSCENITY ☐ 6 PUBLIC INDECENCY (U.C. PREMISE)

4. ADDRESS OF OCCURRENCE (NO. - DIR. - STREET - APT. NO.) 5. DATE OF OCCURRENCE - TIME 6. DATE R.O. ARRIVED - TIME 7. BEAT/ UNIT ASSIGNED 8. BEAT OCCURRED
54 N. WILSON 16 Jan 04 1410 16 Jan 04 1300 6212 2011

9. TYPE OF LOCATION/PREMISE WHERE OFFENSE OCCURRED ☐ 193 DRUG STORE ☐ 095 AIRPORT/AIRCRAFT ☐ 121 CHA APARTMENT ☐ 123 CHA PARKING LOT/GROUNDS ☐ 269 PARK PROPERTY
☐ 240 TAVERN/LIQUOR STORE ☐ 166 POOL ROOM ☐ 260 HOTEL/MOTEL ☐ 290 RESIDENCE
☐ 293 RESTAURANT ☐ 167 BARBERSHOP ☐ 165 NEWSSTAND ☐ 304 STREET

10. LICENSEE'S NAME (CORP. IF APPLICABLE) 11. BUSINESS LICENSE NO(S) OTHER - SPECIFY & ENTER CODE
ALCOHOL

12. VICTIM'S/COMPLAINANT'S NAME (LAST - FIRST - M.I.) 13. HOME ADDRESS (NO. - DIR. - STREET - APT. NO.) 14. SEX - RACE - AGE 15. HOME PHONE 16. BUSINESS PHONE 17. TIME AVAIL. 18. PERSON ☐ 1 DISCOVERED ☐ 2 WITNESSED ☐ 3 REPORTED OFFENSE

19. ☐ ☐ ☐ ☐ 20. OFFENDER IN CUSTODY? 21. NICKNAME/A.K.A. 22. HOME ADDRESS 23. SEX - RACE - AGE 24. HEIGHT 25. WEIGHT 26. CHARGES 27. COURT BRANCH - CALL 28. COURT DATE 29. INVENTORY NO. 30. WEIGHT 31. E.S.V.

25. I.R./C.B. NO. 26. CHARGES 27. COURT BRANCH - CALL 28. COURT DATE 29. INVENTORY NO. 30. WEIGHT 31. E.S.V.

OFFENDER'S NAME (OR DESCRIBE CLOTHING, ETC.) OFFENDER IN CUSTODY? NICKNAME/A.K.A. HOME ADDRESS COURT BRANCH - CALL COURT DATE INVENTORY NO. SEX - RACE - AGE HEIGHT WEIGHT EYES HAIR COMPL.

DATE OF BIRTH I.R./C.B. NO. CHANGES OFFENDER'S NAME (OR DESCRIBE CLOTHING, ETC.) OFFENDER IN CUSTODY? NICKNAME/A.K.A. HOME ADDRESS COURT BRANCH - CALL COURT DATE INVENTORY NO. SEX - RACE - AGE HEIGHT WEIGHT EYES HAIR COMPL.

DATE OF BIRTH I.R./C.B. NO. CHANGES OFFENDER'S NAME (OR DESCRIBE CLOTHING, ETC.) OFFENDER IN CUSTODY? NICKNAME/A.K.A. HOME ADDRESS COURT BRANCH - CALL COURT DATE INVENTORY NO. SEX - RACE - AGE HEIGHT WEIGHT EYES HAIR COMPL.

32. NO. OF OFFENDERS 33. NO. OF ARRESTEES 34. TYPE OF ARREST ☐ ON VIEW ☐ WARRANT 35. ADDRESS OF ARREST 36. VEHICLE USED BY OFFENDERS YEAR MAKE BODY STYLE COLOR VIN. 37. OTHER VEHICLE IDENTIFIERS

38. VEHICLE IDENTIFIERS 39. MOTOR VEHICLE INVENTORY NO. 40. VEHICLE CONFISCATED ☐ 1 YES ☐ 2 NO 41. FLASH MESSAGE SENT ☐ 1 YES ☐ 2 NO 42. GANG RELATED - AFFILIATION

43. NARRATIVE (Do not duplicate or repeat information - for explanation or additional information only) 44. NOTIFICATIONS, IF APPROPRIATE, MADE BY UNIT NOTIFIED PERSON NOTIFIED 45. REPORTING OFFICER'S NAME (PRINT) STAR NO. 46. DATE INVEST. COMPLETED - TIME 47. DATE SUPV. APPROVAL - TIME 48. SIGNATURE

49. EXTRA COPIES REQUIRED (NO. & RECIPIENT) ☐ CONTINUE OTHER SIDE 50. DATE (DAY - MO. - YEAR) - TIME

51. DATE (DAY - MO. - YEAR) - TIME 52. DATE (DAY - MO. - YEAR) - TIME 53. DATE (DAY - MO. - YEAR) - TIME 54. DATE (DAY - MO. - YEAR) - TIME 55. DATE (DAY - MO. - YEAR) - TIME

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... unless otherwise indicated. The sobriety of victims, witnesses and offenders is their apparent condition when reported. Witnesses' location at time of offense and distance from scene are the best approximation obtainable. All statements of victims, witnesses and offenders are summarizations unless otherwise indicated.

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CONTINUATION OF NARRATIVE

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STATUS ☐ 0 PROGRESS ☐ 1 SUSPENDED ☐ 2 UNFOUNDED ☐ 3 C.L.R.D. CLOSED ☐ 4 C.L.R.D. OPEN ☐ 5 EXC. C.L.R.D. CLOSED ☐ 6 EXC. C.L.R.D. OPEN ☐ 7 CLOSED - NON-CRIMINAL

IF CASE IS CLEARED, HOW CLEARED (USE THIS BOX FOR SINGLE CLEARUP OR FIRST CLEARUP OF MULTIPLE CLEARUP LIST)

☐ 1 ARREST & PROSECUTION ☐ 2 DIRECTED TO FAMILY COURT ☐ 3 COMPL. REFUSED TO PROSECUTE ☐ 4 COMMUNITY ADJUSTMENT ☐ 5 OTHER EXCEPTIONAL ☐ ADULT ☐ JUV.

REMARKS (PERTINENT INFORMATION NOT ON ORIGINAL REPORT)

FOR USE BY BUREAU OF INVESTIGATIVE SERVICES ONLY

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SUPERVISOR'S SIGNATURE

DATE (DAY-MO-YR.)

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DATE (DAY-MO-YR.)

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STAR NO.

DATE (DAY-MO-YR.)

101

I N D E X

Date of hearing: 6-30-05

B-1 through B-62

WITNESSES:

	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>
MIGUEL MARTINEZ	4	9	31	43
Petitioner-Defendant rests.....			18	
RUBEN BRIONUS	19	31	43	47
People-Respondent rests.....			48	
Ruling.....			59	

1 MS. SMITH: Judge, I will adopt these
2 questions with regard to Mr. Martinez.

3 THE COURT: So note.

4 MS. SMITH: No further questions.

5 MS. COSTIN: No further questions at this
6 time.

7 THE COURT: You may proceed, Mr. Kopec.

8 MR. KOPEC: Thank you, your Honor.

9

10 CROSS-EXAMINATION

11 BY

12 MR. KOPEC:

13 Q Officer, how long have you been a Chicago
14 police officer?

15 A 11 years.

16 Q And on 16, December, 2004, were you employed
17 and on duty with the Chicago police department?

18 A That's correct.

19 Q Officer, I just want to go into -- you said
20 in the early afternoon you were in the area of 5402
21 North Western, in Chicago, correct?

22 A That's correct.

23 Q What brought you to that location on that
24 date and time?

1 A Information about a confidential informant
2 related that there was a male Black subject,
3 approximately 35 years of age, five-six, 170 pounds,
4 with a shaved head that would be retrieving a couple
5 ounces of cocaine from the area of 5400 North Lincoln.

6 Q And armed with that information, did you and
7 fellow officers set up a surveillance?

8 A That's correct.

9 Q Approximately how many other officers were
10 with you?

11 A Five other officers.

12 Q Officer, was this your first narcotics
13 surveillance or have you been involved in any other
14 narcotics surveillance?

15 A I have been involved with hundreds of
16 narcotic surveillances.

17 Q And you were -- what is the term, a
18 surveillance officer or were you an enforcement
19 officer?

20 A Surveillance officer.

21 Q What type of vehicle were you in?

22 A I was in a covert vehicle.

23 Q What do you mean by "covert" car?

24 A It is just a regular vehicle.

1 Q Do you recall what type of vehicle you were
2 in?

3 A Yes. It was Taurus.

4 Q Were you -- or you weren't in a Crown
5 Victoria, an undercover police car?

6 A No.

7 Q This vehicle you had, was it equipped with
8 any lights or sirens?

9 A No.

10 Q Did you proceed to the area of Balmoral and
11 Lincoln Avenue, in Chicago, Illinois?

12 A Yes, I did.

13 Q And is that where you initially set up your
14 surveillance?

15 A That's correct.

16 Q Did you see anyone who you saw in court
17 today?

18 A Yes, I did.

19 Q Who was that?

20 A The Defendant, Davis, in the tan --
21 the male Black in the tan D.O.C. outfit, sitting on
22 the bench.

23 MR. KOPEC: Judge, may the record reflect the
24 identification of the Defendant.

1 THE COURT: So note the identification.

2 BY MR. KOPEC:

3 Q How did you see the Defendant, Davis,
4 arriving in the area of Balmoral?

5 A He arrived in a vehicle where.

6 Q And what, if anything, did he do when he
7 arrived?

8 A He parked the vehicle; got out of the
9 vehicle; just hung out by the vehicle and used his
10 phone.

11 Q Where were you in relation to the Defendant?

12 A I was sitting in my car approximately -- I'd
13 say about 75 feet away.

14 Q And you were watching the Defendant?

15 A That's correct..

16 Q How long did you watch the Defendant for?

17 A Approximately 15 minutes.

18 Q At the end of 15 minutes what, if anything,
19 did the Defendant do?

20 A The Defendant walked eastbound on Balmoral to
21 Western Avenue.

22 Q Did you maintain that position or did you
23 follow the Defendant?

24 A I followed the Defendant.

1 Q How did you follow the Defendant?

2 A In my vehicle.

3 Q And the Defendant was on foot or did he get
4 back into his vehicle?

5 A He was on foot.

6 Q Since you were in the vehicle, how did you
7 maintain your distance from the Defendant, who was on
8 foot?

9 A I just let him get in front of me for like a
10 half a block. And as he walked, I crept up behind
11 him.

12 Q Is Balmoral a multi-lane street or is it a
13 small residential street?

14 A It's a small residential street. I think
15 it's two ways.

16 Q Did you -- how many blocks did you follow the
17 Defendant?

18 A Three blocks.

19 Q And what -- did the Defendant ultimately stop
20 at Western and Balmoral?

21 A That's correct.

22 Q Is there a bus stop there?

23 A Yes, it is, on the northwest corner.

24 Q Did the Defendant continue to wait at that

1 MR. KOPEC: Thank you.

2 THE WITNESS: Mr. Martinez drove by him and
3 honked at Mr. Davis.

4 BY MR. KOPEC:

5 Q Were you able to hear this?

6 A Yes.

7 Q What, if anything, did Mr. Davis then do in
8 return?

9 A Mr. Davis gave him a gesture with a head nod.

10 Q Did the Mercury car then stop then at the
11 corner of Western and Balmoral?

12 A No, it did not.

13 Q Where did it proceed?

14 A It turned westbound on Balmoral into the west
15 alley of Western, behind the building, directly behind
16 the building in a parking spot.

17 Q And were you able to see this from your
18 surveillance point?

19 A That's correct.

20 Q And where did the vehicle end up?

21 A Directly behind the building in the parking
22 spot in the alley of 5402 North Western.

23 Q And do you recall which parking spot?

24 A It was the first parking spot from the alley.

1 Q Were you also able to observe Mr. Davis?

2 A Yes.

3 Q What, if anything, did he do at this point?

4 A When he parked -- when Mr. Martinez parked,
5 Mr. Davis walked towards that vehicle.

6 Q What did you do at this point?

7 A I exited my vehicle and followed him on foot.

8 Q Did you see Mr. Davis enter the passenger
9 vehicle of Miss Martinez' car?

10 A Yes, I did.

11 Q As you were walking down the street, Officer,
12 were you in plain clothes or were you in your uniform?

13 A I was in plainclothes.

14 Q Did you have any sort of bulletproof vest on
15 the outside of your clothes?

16 A Not on the outside, no.

17 Q Did you have your car visible?

18 A No, I did not.

19 Q Did you have your gun drawn or was your gun
20 visible?

21 A It was not visible.

22 Q Did you immediately, as you saw Defendant
23 Davis, enter the passenger vehicle or passenger car,
24 Mr. Martinez' car, did you immediatly walk up to that

1 vehicle?

2 A Yes, I walked towards it. Yes, I did.

3 Q Did you walk directly toward it or did you
4 continue to walk down Balmoral?

5 A Well, I continued to walk down Balmoral out
6 of his sight, and then I came down -- up to the car.

7 Q Was there other pedestrian traffic on
8 Balmoral and Western, in that area?

9 A I'm sure there was.

10 Q And after circled back towards the car that
11 was parked, was it still parked?

12 A That's correct.

13 Q And were you able to approach the passenger
14 side of that car?

15 A Yes, I did.

16 Q Do you recall if the passenger side had any
17 tinted windows?

18 A No, I do not.

19 Q At some point, how close did you get to that
20 car before you stopped?

21 A About five to 10 feet away.

22 Q And did you make any observations of what was
23 happening inside that vehicle between Mr. Davis and
24 Mr. Martinez from five to 10 feet away?

1 A Yes, I did.

2 Q What did you observe?

3 A I observed Mr. Martinez hand Mr. Davis a
4 clear plastic bag that contained large chunks of
5 suspect cocaine.

6 Q Officer, this was afternoon. This was
7 daylight, correct?

8 A That's correct.

9 Q Was there anything between you and the
10 vehicle?

11 A No, it was not.

12 Q Officer, have you ever made any narcotics
13 arrests in your 11 year career?

14 A Hundreds.

15 Q Have any of those arrests included arrests
16 for cocaine?

17 A Yes.

18 Q The bag that you saw Mr. Davis -- Mr.
19 Martinez hand to Mr. Davis, what did you believe was
20 in that bag?

21 A I believed it was cocaine.

22 Q Was that based on your experience through the
23 past 11 years?

24 A That's correct.

1 Q At this point, were you still standing five
2 to 10 feet away from the passenger side door?

3 A When I saw this, I approached the vehicle
4 instead of getting closer.

5 Q As you approached, what, if anything, did Mr.
6 Davis do at that point?

7 A He looked in my direction.

8 Q And what, if anything, did you do next?

9 A And then he placed that plastic bag that was
10 given to him by Mr. Martinez into the glove box.

11 Q What did you do at that point?

12 A At that point, I was almost near the
13 passenger side door. I yelled, "Police," and I told
14 him to get out of that car.

15 Q And did Mr. Davis step out of the vehicle?

16 A Yes, he did.

17 Q Did you also have a sergeant with you
18 approaching the car?

19 A Yes, I did.

20 Q Was he approaching the same side or the
21 driver's side?

22 A The driver's side.

23 Q And did you observe him get Mr. Martinez, the
24 driver?

1 A Yes, I did.

2 Q At that point did you call for enforcement
3 officers?

4 A Yes, I did.

5 Q Did enforcement officers come and take
6 control of both Defendants?

7 A Yes, they did.

8 Q At that time, did you and your sergeant
9 conduct a search of that glove box?

10 A That's correct.

11 Q What, if anything, was recovered?

12 A The clear plastic bag that was put in there
13 by Mr. Davis was recovered.

14 Q And what did you find that to contain?

15 A That contained large chunks of suspect
16 cocaine.

17 Q And was a custodial search performed by
18 Officer McKenna on Defendant Martinez?

19 A That's correct.

20 Q Did that yield \$435 United States currency?

21 A That's correct.

22 Q Officer, have you ever met Defendant Martinez
23 before the date in question?

24 A No, I did not.

1 Q Were you aware if any members of your team
2 ever met Mr. Martinez before the date in question?

3 A No.

4 Q Officer, how big was this plastic bag that
5 you saw Martinez hand to Davis?

6 A It was bigger than a sandwich bag, but not
7 quite as big as a freezer bag.

8 Q The size of a grapefruit, maybe?

9 A That's correct.

10 Q Specifically, how did you see Martinez hand
11 this grapefruit-size bag to Davis?

12 A Well, when Martinez handed it to Davis, he
13 was cupping the bag underneath.

14 Q He handed that over to Davis?

15 A Yes.

16 Q How did Davis take control?

17 A He took control with his left hand almost the
18 same way.

19 MR. KOPEC: Judge, nothing further.

20 THE COURT: You may inquire.

21

22 REDIRECT EXAMINATION

23 BY

24 MS. COSTIN:

1 Q You said you spoke to a confidential
2 informant?

3 A I did not.

4 Q You did not speak to the confidential
5 informant. You don't know if the confidential
6 informant had been used before?

7 A I know he has, yes. Yes he has been used
8 before.

9 Q But you have no personal knowledge of that
10 confidential informant?

11 A No.

12 Q And was the confidential informant present at
13 this time?

14 A No, he was not.

15 Q Did the confidential informant tell you how
16 he obtained any information?

17 MR. KOPEC: Objection.

18 THE COURT: No, he may answer, if he knows.

19 BY MS. COSTIN:

20 Q Did you find out how the confidential
21 informant obtained that information?

22 A No.

23 Q Did he tell you -- did you ever find out if
24 the confidential informant gave the name of a person?

1 A No.

2 Q No, you don't know or no, he didn't give the
3 name of a person?

4 A No, I don't know.

5 Q Did the confidential informant tell you
6 whether the person would be in a car or on foot?

7 A He said he'd arrive in a car.

8 Q He would arrive in a car. Did they tell you
9 what kind of a car?

10 A No.

11 Q What the license plate of that car would be?

12 A No.

13 Q Okay. What kind of a shirt that person would
14 be wearing?

15 A No.

16 Q What kind of pants, any kind of clothing
17 description?

18 A No.

19 Q Whether that person would be with another
20 person at that time?

21 A No.

22 Q You were not given any of this information?

23 A That's correct.

24 Q Were you given a description of the person he

1 would be meeting?

2 A No.

3 Q Were you given a description of whether that
4 person would be in a car?

5 A No.

6 Q Or a van?

7 A No.

8 Q So we're clear, you didn't have any of that
9 information?

10 A That's correct.

11 Q And so you didn't have -- or a license plate
12 number, for that matter?

13 A No.

14 Q You were told whether that person that he
15 would be meeting would be a man or a woman?

16 A No.

17 Q Or whether he'd be accompanied by more than
18 one person?

19 A No.

20 Q You were given no description of the person
21 that would be meeting him at all?

22 A That is correct.

23 Q And he told you the transaction that would
24 take place at 5400 North Lincoln?

1 A Around that area.

2 Q Okay. Where Mr. Davis was arrested, is that
3 Balmoral and Western?

4 A That's correct.

5 Q Where is the police station in that area?

6 A From Lincoln, 5400 Lincoln or Balmoral and
7 Lincoln, I think it's only a couple blocks away.

8 Q And so we're clear, no transaction took place
9 at 5400 North Lincoln?

10 A No.

11 Q Now, you saw a man arrive at Balmoral and
12 Western in a car?

13 A Where are we talking?

14 Q You took up surveillance at that area?

15 A At where?

16 Q Where did you originally take up
17 surveillance?

18 A Originally?

19 Q Yes.

20 A 5400 North Lincoln.

21 Q And you saw a person -- did you see a person
22 arrive in a car at Balmoral and Western?

23 I withdraw that.

24 Did you see Mr. Davis arrive in his Saturn

1 at Balmoral and Western?

2 A No.

3 MS. COSTIN: Marking Defense Exhibit No. 1
4 for Identification.

5 (WHEREUPON, the document was
6 marked Defense Exhibit No. 1
for identification.)

7 BY MS. COSTIN:

8 Q Did you make a police report that day,
9 Officer?

10 A I did not.

11 Q Did you sign a police report?

12 A I believe that's Sergeant O'Grady's.

13 Q Did you put your initials at the bottom of
14 that police report?

15 A No.

16 MS. COSTIN: If I may approach, Judge?

17 THE COURT: Sure.

18 BY MS. COSTIN:

19 Q Showing you what has been marked Defense
20 Exhibit No. 1 for Identification. Are these your
21 initials down at the bottom?

22 A Yes.

23 Q So, those are your initials?

24 A Yes.

1 Q So, you read that over before you signed it?

2 A That's correct.

3 Q Okay. And did you sign the, "approximately
4 1300 hours that a male Black subject arrived driving a
5 small dark Saturn; subject exited his vehicle and
6 stood on the corner of Balmoral and Western." Did you
7 sign that police report?

8 A Yes, I did.

9 Q And Mr. Davis did arrive in a Saturn?

10 A Yes, he did.

11 Q Now, at the time that you initially took up
12 surveillance, how many undercover officers were there?

13 A Five.

14 Q How many vehicles?

15 A I recall at least three.

16 Q And were they all undercover vehicles?

17 A That's correct.

18 Q And everybody was in plainclothes?

19 A That's correct.

20 Q And what was the distance between you and
21 those other undercover vehicles?

22 A I don't recall.

23 Q And were you the closest undercover vehicle
24 to the surveillance point?

1 A I don't recall.

2 Q Could the other undercover vehicles, to your
3 knowledge, see what was going on?

4 A Yes.

5 Q So, were they. -- could you see them?

6 A No.

7 Q And when he got out of the car at Balmoral --
8 when he exited the Saturn, there is a Jiffy Lube right
9 there?

10 A That's correct.

11 Q He parked the car legally?

12 A It was in the lot, in the Jiffy Lube.

13 Q And he was in the Jiffy Lube parking lot for
14 approximately 50 minutes?

15 A His car was.

16 Q I'm sorry, Officer.

17 I'd like to once again show you defense
18 Exhibit No.1 for identification.

19 Officer, when he exited his vehicle, did he
20 stand there for approximately 15 minutes?

21 A That's correct.

22 Q And that's what you signed, correct, Officer?

23 A That's correct.

24 Q And that's the vehicle that was parked in the

1 Jiffy Lube?

2 A That's correct.

3 THE COURT: That's the vehicle you saw Mr.
4 Davis arrive in?

5 THE WITNESS: Mr. Davis arrive, yes.

6 BY MS. COSTIN:

7 Q Now, you saw Mr. Davis talking on the phone
8 at that time?

9 A That's correct.

10 Q Now, you couldn't hear that he was talking to
11 his wife?

12 A (No response)

13 Q Did you hear that he was talking to his wife?

14 A No.

15 Q Could you hear what he was saying at all?

16 A No.

17 Q And then you followed him approximately three
18 to four blocks?

19 A That's correct.

20 Q And he ended up by a bus stop?

21 A That's correct.

22 Q Okay. Now, how many vehicles were with you
23 at this time?

24 A The three vehicles again.

1 Q And where were they located?

2 A I don't recall.

3 Q And the same amount of officers?

4 A That's correct.

5 Q Now, were you the closest vehicle at this
6 time?

7 A I don't recall.

8 Q Now, when you saw Mr. Martinez's car pull up,
9 what kind of a car was it?

10 A It was a Mercury Mystique.

11 Q Now so we're clear again, a Mercury Mystique
12 is a compact car?

13 A It's a four-door.

14 Q Four-door car?

15 A That's correct.

16 Q And you saw Mr. Davis get into that vehicle?

17 A That's correct.

18 Q Okay. Now, do you remember testifying at the
19 Grand Jury on January 20, 2005?

20 A That's correct.

21 Q And this is approximately 35, 40 days after
22 this occurred?

23 A That's correct.

24 Q And were you asked this question:

1 "Q. And did you observe Defendant Davis
2 standing on the corner of that location
3 for approximately fifteen minutes before
4 a van pulled up, which was driven by
5 Martinez?"

6 Do you remember being asked that
7 question and giving that answer?

8 A I don't recall him saying a van, no.

9 Q Would you like to see, Officer, Defendant's
10 Exhibit No. 2 for Identification.

11 THE COURT: So note.

12 MS. COSTIN: Page three, line 22.

13 (Brief pause)

14 BY MS. COSTIN:

15 Q Is your memory refreshed now, Officer?

16 A Yes.

17 Q Do you recall being asked that question and
18 giving that answer?

19 A It says, "Van."

20 Q Did you say it was a van in the Grand Jury?

21 A I said yes.

22 Q And so we're clear, do you remember being
23 asked this question and giving this answer:

24 Page four, line three.

1 "Did Defendant Davis then enter that van on
2 the passenger side?

3 A. Yes, he did."

4 THE WITNESS: Yes. That's what it says
5 there.

6 MS. COSTIN: If I may have a moment, please,
7 your Honor?

8 (Brief pause)

9 BY MS. COSTIN:

10 Q Now, counsel asked you questions about you
11 approaching this car, slash, van?

12 A It was a car.

13 Q And looking inside of it, were you directly
14 down into the van, or car?

15 A No.

16 MS. COSTIN: If I could have a moment?

17 THE COURT: Certainly.

18 (Brief pause)

19 MS. COSTIN: No further questions, Judge.

20 MS. SMITH: Judge, I would adopt those
21 questions in relation to Mr. Martinez.

22 THE COURT: Thank you. Any additional
23 questions you wish to ask?

24 MS. SMITH: No, Judge.

1 THE COURT: Mr. Kopec?

2 RECROSS-EXAMINATION

3 BY

4 MR. KOPEC:

5 Q Officer, the transcript that the Defense
6 counsel just showed you, that was a transcript from
7 the garage, correct?

8 A That's correct.

9 Q In that case the Assistant State's Attorney
10 who was asking you questions actually called that
11 vehicle a van, correct?

12 A That's correct.

13 Q The reports that you actually filled out, for
14 example, the Defendant Martinez's arrest report,
15 indicates that the car was a four-door Mystique,
16 correct?

17 MS. COSTIN: Judge, I'm going to object. You
18 can't rehabilitate a prior inconsistent statement.

19 THE COURT: I respectfully overrule the
20 objection.

21 BY MR. KOPEC:

22 Q So, Officer, with respect to the report that
23 the police actually filled out, the arrest report
24 indicates that the vehicle was a four-door Mystique,

1 correct?

2 A That's correct.

3 Q And this vehicle was towed, correct?

4 A That's correct.

5 Q And the vehicle report also filled out by the
6 police indicate that it was a four-door Mystique,
7 correct?

8 A That's correct.

9 Q And in your vice-case report, the report you
10 filled out and the officers, you never referred to
11 this car as a van, correct?

12 A That's correct.

13 Q It is just the questioning by the Assistant
14 State's Attorney who kept referring to it as a van,
15 correct?

16 A That's correct.

17 Q Officer, the description counsel went through
18 with the description of what was not contained in the
19 information from the C.I., but the C.I. did describe
20 an individual with a shaved head, correct?

21 A That's correct.

22 Q And while the Defendant does that have a
23 shaved head today, at the time of his arrest, the
24 Defendant had a shaved head, correct?

1 A That's correct.

2 Q And the Defendant also matched the
3 approximate age, race, sex, height and weight of the
4 information from the C.I., correct?

5 A That's correct?

6 Q In addition to being at the location at the
7 time the C.I. had provided?

8 A That's correct.

9 Q Officer, just so everyone is clear, Western
10 Avenue runs north and south, correct?

11 A That's correct.

12 Q And at that point, Lincoln Avenue also runs
13 straight north and south, correct?

14 A That's correct.

15 Q And Balmoral runs east and west, correct?

16 A Yes.

17 Q And Lincoln Avenue is approximately three
18 blocks to the west of Western Avenue, correct?

19 A Yes, it is.

20 Q So, ndfor the Defendant to walk from Lincoln
21 and Balmoral to Western and Balmoral, he is only
22 walking approximately three blocks?

23 A That's correct.

24 Q And counsel pointed out that your report --

1 showed you a statement from your report where it said
2 that the Defendant was standing on the corner of
3 Balmoral and western for 15 minutes, correct?

4 A That's correct.

5 Q And the next sentence says the subject began
6 walking east on Balmoral to Western, correct?

7 A That's correct.

8 Q So, does it appear that there is a typo in
9 your report?

10 A That's correct.

11 Q The Defendant was initially on Lincoln and
12 Balmoral, correct?

13 A That's correct.

14 Q And then he walked east on Balmoral to
15 Western and Balmoral, correct?

16 A That's correct.

17 Q If you could just describe for the court what
18 type of road is Western?

19 A Western Avenue is a busy, busy intersection
20 or busy road, street.

21 MR. KOPEC: Judge, if I could have one
22 second.

23 THE COURT: Sure.

24 BY MR. KOPEC:

1 Q And how many lanes each way is Western Avenue
2 at that point?

3 A I believe there are two lanes on each way,
4 going north and south.

5 MR. KOPEC: Nothing further, Judge.

6 THE COURT: Anything further?

7 MS. COSTIN: Yes.

8

9 REDIRECT EXAMINATION

10 BY

11 MS. COSTIN:

12 Q You were asked on more than one occasion at
13 the Grand Jury by the State's Attorney about a van.

14 MR. KOPEC: Judge, asked and answered.

15 THE COURT: You made your point, I think.

16 MS. COSTIN: Okay.

17 BY MS. COSTIN:

18 Q Did you ever get the Saturn out of the Jiffy
19 Lube lot?

20 A No.

21 Q And the Jiffy Lube is at Balmoral and
22 Western?

23 A No.

24 Q Not on the exact corner, but it's on that

1 block?

2 A It's closer to Balmoral and Lincoln.

3 MS. COSTIN: I have nothing further.

4 THE COURT: Anything further by The state.

5 MR. KOPEC: No. Thank you very much.

6 (Witness excused)

7 THE COURT: Any additional witnesses you wish
8 to offer?

9 MS. SMITH: No, Judge. At this time the
10 Petitioner rests.

11 MS. COSTIN: Petitioner Davis rests.

12 PETITIONER-DEFENDANTS REST

13 THE COURT: State?

14 MR. KOPEC: Judge, the State, with respect to
15 Mr. Martinez, seeks to introduce certified copies of
16 convictions, the 2003 conviction for PCS and a 1993
17 conviction for PSMV.

18 THE COURT: It will be so noted.

19 MR. KOPEC: Judge, with that, the State would
20 rest.

21 PEOPLE-RESPONDENT RESTS

22 THE COURT: Okay. Both sides having rested,
23 the Petitioner may argue.

24 MS. SMITH: Judge, you heard the testimony

1 today from client, Mr. Martinez, that he was the
2 driver of a vehicle that was stopped by the police
3 officers on December 16th of 2004.

4 When the vehicle was stopped, my client
5 was not committing any type of traffic offenses. He
6 was not violating any state, local or federal laws.
7 And he was detained by the police officers for no
8 reason whatsoever, outside of the fact that he stopped
9 to pick up his friend, who was waiting at the bus
10 stop.

11 The police officers were at that
12 location based on general information that they
13 received from a confidential informant. The
14 information that the officers were acting upon is
15 extremely vague, and the only description that they
16 have was a male Black, with a bald head, weighing 180
17 pounds, five-six and 35 years old.

18 Judge, it's 2:00 in the afternoon. Any
19 Black male in that neighborhood could have fit that
20 description. The fact that my client stopped to help a
21 friend out at a bus stop doesn't mean that he was
22 doing anything unlawful.

23 The officers had no information about
24 who would be arriving at that location; who, if

1 anybody, would be involved in the transaction; whether
2 or not there would be a female or a male or the
3 nationality or ethnicity of any other individuals that
4 would be involved in this alleged transaction.

5 Judge, the officer testified that the
6 information provided that the alleged transaction
7 would take place at 5400 North Lincoln. My client was
8 on 5400 North Western. So, there is a difference in
9 location. There is no license plate that was given, no
10 description of a vehicle that would be arriving at
11 that time.

12 Judge, the officer had testified previously
13 in the Grand Jury that he approached a van, and all
14 these transactions happened inside a van. However, his
15 police reports say a vehicle, a passenger car. The
16 officer -- I would ask you to accept that on that
17 particular day the officers were acting on information
18 and taking a hunch or a guess or a stab in the dark
19 about what was happening when my client picked up this
20 male Black. And just because they were acting on a
21 hunch, pulled over this vehicle to try to find out
22 whether or not this individual, being Mr. Davis, was
23 involved in the transaction. They unlawfully searched
24 the vehicle in which my client was the driver.

1 You have not heard any information or
2 testimony regarding if there was an exchange of money
3 between the parties. The narcotics were found inside
4 the glove box. Judge, most likely, the narcotics were
5 inside of the glove box all along, and that the
6 officer just randomly and unlawfully searched this
7 car. And that's when they found these drugs.

8 It's not very credible that the officer
9 who testified before the court today, he just happened
10 to walk up on this vehicle and coincidentally found
11 these drugs in plane view.

12 I would ask that you find that we have
13 met our burden and grant our motion in regards to Mr.
14 Martinez; that he was just operating this vehicle,
15 picked up his friend, who just happened to fit the
16 general and vague description, being a male Black with
17 a bald head at that time, and his vehicle was
18 unlawfully searched based on that -- or his friend's
19 vehicle was unlawfully searched based on that
20 information, and that the evidence that was recovered
21 should be suppressed.

22 THE COURT: Thank you, Miss Smith.

23 MS. COSTIN: Judge, we'll adopt that
24 argument.

1 THE COURT: I'll so note.

2 MS. COSTIN: I would like to add that your
3 Honor is aware of the case of Florida versus Jackie
4 El. That is a Supreme Court case. And in that case,
5 the court rejected the Prosecution's argument that
6 Tip was reliable because it described the Defendant by
7 age, clothing and location.

8 Here we don't even have the location
9 right. Also in that case, in Alabama versus White,
10 another Supreme Court case, a bare report of an
11 unknown, unaccountable who even explained how he got
12 the information and, what the officer said, he didn't
13 know or gave any corroboration of how he got that
14 information, was not a good basis for a Terry stop.

15 And indeed Mr. Martinez is a credible
16 witness here. He says he's driving away. The car is
17 stopped. He says it's an undercover officer that
18 blocks his path. He says it's no lights. He could
19 have given you full blown details, but he doesn't;
20 very reliable witness. He said just exactly what
21 occurred.

22 You also have the fact that the officer,
23 less than 40 days after this occurred, is testifying
24 at the Grand Jury, saying what he saw occur in the

1 van. Now, he wasn't asked it once. He was asked it a
2 couple of occasions. And he never corrected it.

3 Judge, because of that we ask you grant
4 or Motion.

5 THE COURT: State?

6 MR. KOPEC: Judge, first of all with respect
7 to Mr. Martinez, you heard him testify. He's obviously
8 a convicted felon. But even that aside, his version
9 of the events doesn't make any sense whatsoever.

10 He says that he is stopped on Western
11 Avenue by an undercover detective car, not an
12 undercover car, but a detective car. And he says
13 rather than activate lights, activate a siren and pull
14 over the Defendant's vehicle, that he merely pulls in
15 front of him and stops his car.

16 So, let's think about that. He's driving
17 alone. A car pulls in front of him and stops. His
18 reaction is to stop his vehicle instead of just move
19 to the left lane and drive along. He decides to stop.
20 Not only does that not make any sense from a police
21 standpoint, why would you pull someone over like that?
22 How do you know to indicate that you are the police,
23 if Mr. Martinez never testified they flagged him down
24 or showed him any badge?

1 His testimony was cars pulled in front
2 of him and stopped. Did he testify that other cars
3 blocked him in? He says there were other cars but
4 they didn't come out until later. So, he had one car
5 pulling in front of him. Not only doesn't that make
6 any sense from just the police practicality
7 standpoint, it doesn't make sense from a safety
8 standpoint.

9 Your Honor, I'm sure, is well aware of
10 the traffic on Western Avenue. It is a busy street.
11 Are you going to pull over your car and get out of
12 your car on Western Avenue without activating any sort
13 of emergency equipment so that you don't get struck by
14 the car right behind you, apparently Mr. Martinez, or
15 other cars in the left.lane of traffic?

16 Why would police officers do that? That
17 makes no sense in terms of safety. That just would
18 not happen. That scenario of an arrest makes no sense
19 whatsoever, Judge.

20 Additionally, his conspiracy theory of
21 those police -- you know, he wasn't doing anything;
22 the police stopped him for no reason; throw him on the
23 ground; throw him in the car, every conspiracy needs a
24 why. Why him? He never met those officers. Those

1 officers never met him. In fact, they don't have even
2 a description of him. Why did they pull him over?
3 Why would they throw him on the ground?

4 Judge, it doesn't make sense the way it
5 went down. We ask you not to believe the Defendant,
6 Martinez's credibility. On the contrary you heard the
7 credible testimony of the police officer and his
8 version of how this arrest took place makes perfect
9 sense. They had to make a description of the
10 Defendant -- what turned out to be the Defendant,
11 Davis.

12 And counsel points out Florida versus
13 J.L. on the whole issue of how much predictive
14 information the C.I. can give to make a valid arrest.
15 But that's not what we have here. And J.L. and those
16 type of cases, the police took the C.I. information
17 and made a stop, made an arrest. That's not what we
18 have here. Here they followed the Defendant. They
19 didn't arrest him on Lincoln and Balmoral as soon as
20 they saw him. They didn't arrest him on Western and
21 Balmoral as soon as they saw him meet with Mr.
22 Martinez. They merely walked up to the vehicle.
23 This is a completely different situation from J.L.
24 where they arrest the person based solely on the C.I.

1 information.

2 In this case in fact you can take
3 and draw out that whole C.I. information. Because
4 what you essentially have here, when did you boil the
5 case down, is a police officer standing in a public
6 place where he has a right to be, five to 10 feet
7 away, he sees two Defendants with a bag, which in his
8 11 years as a police officer, he believes to be
9 cocaine. He is on a public place. He sees a crime.
10 That's probable cause to arrest the Defendants.

11 The C.I. issue is not an issue, Judge.
12 It merely explains how they got to the scene. And
13 ultimately he was in a public place, he sees a crime.
14 He has probable cause to arrest both Defendants.

15 Judge, counsel went on and on about the
16 testimony if the Grand Jury of a van. I think it is
17 clear, your Honor, other reports the police filled out
18 indicate a car. The Assistant State's Attorney called
19 it a van. That's the only impeachment against this
20 Defendant -- against the police officer. We ask that
21 you accept this version of events, since they are the
22 ones that make the most sense, and that you disbelieve
23 Defendant Martinez and you deny both Defendants'
24 Motions.

1 THE COURT: Thank you.

2 Any response?

3 MS. COSTIN: Yes, please. That's huge. It's
4 huge: van, car. It's huge. Because it says what he
5 could see and what he could observe at that time.
6 It's huge.

7 So, if the C.I. -- he preferred to
8 ignore everything that happened with the C.I., then we
9 have to go on what this officer said. And at a
10 different proceeding under oath he said it was a van.
11 And now he comes here and tells you it is a Mercury
12 Mystique. So, it's his ability to observe. He says one
13 thing at the Grand Jury and one thing here in front of
14 your Honor.

15 Also, just as an aside, the officer did
16 testify that there was no lights or anything on the
17 vehicle. So, Mr. Martinez was being correct when he
18 said that no van pulled in front of him with Mars
19 lights going and radioing and telling him to get out
20 of the car because the officer said those cars were
21 not equipped with that.

22 Nothing further.

23 THE COURT: Miss Smith, any comments?

24 MS. SMITH: Judge, just briefly in response

1 to the conspiracy of the why Mr. Martinez' vehicle was
2 stopped. It is because a male Black entered inside
3 his car. And that's the reason why he was stopped.
4 The officers were watching Mr. Davis for a period of
5 time. They were suspicious. And I'm sure in their
6 trainings, the trainings of 11 years, the officers
7 know how to pull over a vehicle to prevent it from
8 moving; jump out with their guns; make them get out of
9 car because they believe, over a hunch, that this was
10 some type of transaction.

11 And based on that, that's what made an
12 illegal search of the car. And they found the
13 narcotics inside the glove box. The narcotics weren't
14 found on anyone's lap or on the floor or weren't
15 dropped or anything. They had to go inside in a
16 closed glove box inside this vehicle and recover the
17 drugs.

18 And that's what happened in this case,
19 based on that vague information of a tip that they
20 received from a confidential informant. My client
21 testified credibly, and we ask that you grant our
22 motion.

23 MS. COSTIN: I will note that.

24 THE COURT: Thank you. I will note that also.

1 There is no question if I believed the
2 story related by Mr. Martinez, I would quash the
3 arrest and suppress the evidence.

4 Insofar as Defense counsel's argument
5 regarding their having insufficient cause to pull the
6 vehicle over, I would agree. However, we have a
7 conflict in facts here. And the officer testified
8 that's not how it went down. He rather was not stopped
9 on Western. Western, we all know, is a very busy --
10 one of the main thoroughfares. There's north and
11 south. I think it runs from each end of Chicago,
12 north and south, and a main highway at that. As a
13 matter of fact, it goes from Blue Island and beyond.

14 We all know that it was four-door car,
15 because Mr. Martinez testified it was a four-door car.
16 So, we know it was a car. I found unfortunately that
17 those that present matters to the Grand Jury in
18 leading questions quite frequently misstate facts,
19 causing problems like this and in doing it in a rapid
20 fashion as they do, says a van instead of a car. and
21 here you have a cause for impeachment. All the reports
22 indicate it was a car. Mr. Martinez indicates it was a
23 car. I accept the fact it was a car.

24 If it occurred as the officers

1 testified, they don't need any informant whatsoever.
2 If for whatever reason, on a hunch, if they just have
3 the statement, in this area I saw what transpired, I'm
4 sure that would rather unlikely, but even if they did,
5 and finally got to the alley and saw what the officer
6 said he saw, a bag being transferred, and once Mr.
7 Davis got it, he saw somebody approaching the vehicle,
8 put it into the glove compartment, and at that point
9 there's an arrest.

10 Under all the intended circumstances, I
11 would believe the officers' testimony and find that
12 they did have probable cause to make the arrest.
13 Motion To Quash Arrest/Suppress Evidence will be
14 respectfully denied.

15 MS. COSTIN: I would like a status date.

16 What is Mr. Davis' term? I explained to
17 him that while the Motion was pending, no term had
18 been running. Actually since I have been representing
19 him, no term has been running.

20 MR. KOPEC: According to the State, if the
21 demand was running, the demand would be 56.

22 MS. COSTIN: As your Honor recalls, Mr. Davis
23 is inquiring about his term time. When I was
24 appointed, your Honor told him his term was not

1 running if he wanted the Public Defender's Office
2 appointed.

3 THE DEFENDANT: If I remember correctly, I
4 was told by the State I had 55 days into my term.
5 That was in fact two months ago, which means that my
6 term should have been still running, unless I'm
7 confused.

8 THE COURT: It doesn't run as long as you
9 have Motions pending.

10 THE DEFENDANT: A motion was filed on the 8th
11 of June. So, from the 8th until today should have
12 been the only time that my term should have stopped,
13 am I correct?

14 THE COURT: Can I see the file?

15 (WHICH WERE ALL THE PROCEEDINGS
16 HAD IN THE ABOVE-ENTITLED CAUSE).

17 *****
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24

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4
5
6

7 I, BARBARA J. KIMBROUGH, CSR, Official Court
8 Reporter of the Circuit Court of Cook County, County
9 Department - Criminal Division, do hereby certify that
10 I reported in shorthand the proceedings had at the
11 hearing in the above-entitled cause; that I thereafter
12 caused to be transcribed into typewriting the above
13 Report of Proceedings, which I hereby certify is a
14 true and correct transcript of the proceedings heard
15 on said date, before the Honorable FRED G. SURIA, JR.,
16 Judge of said court.
17

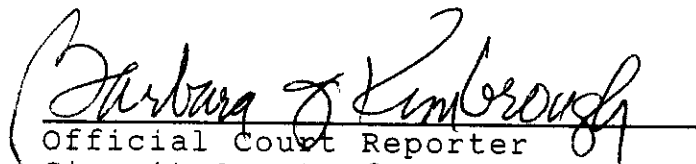
18
19 
20 Official Court Reporter
21 Circuit Court of Cook County
22 .Criminal Division
23
24

Exhibit B

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
5 COUNTY DEPARTMENT - CRIMINAL DIVISION

6 THE PEOPLE OF THE STATE)
7 OF ILLINOIS,)
8)
9 Plaintiff,)
10)
11 vs.) No. 05 CR 2672-02
12)
13 ROOSEVELT DAVIS,)
14)
15 Defendant.)

16 REPORT OF PROCEEDINGS had at the hearing of
17 the above-entitled cause, before the Honorable MARY
18 MARGARET BROSNAHAN, Judge of said court, on Wednesday,
19 the 17th day of August, 2005, at the hour of
20 approximately 1:30 o'clock p.m.

21 PRESENT:

22 HON. RICHARD A. DEVINE,
23 State's Attorney of Cook County,
24 BY: MR. JASON KOPEC,
25 BY: MS. EMILY L. STEVENS,
26 Assistant State's Attorney,
27 On behalf of the People;

28 MR. EDWIN A. BURNETTE,
29 Public Defender of Cook County,
30 BY: MS. ROSE COSTIN,
31 BY: MS. STEPHANIE L. HIRSCHBOECK,
32 Assistant Public Defender,
33 On behalf of the Defendant.

34 Laurel E. Laudien, RMR, RPR, CSR #084-001871
Official Court Reporter - Circuit Court of Cook County
County Department - Criminal Division (773) 869-6065

1 THE COURT: All right. The case of the People
2 versus Roosevelt Davis, 05 CR 2672.

3 This matter was transferred up here for trial
4 from Judge Suria.

5 Both sides are answering ready for trial, is
6 that correct?

7 MR. KOPEC: Yes, Judge.

8 MS. COSTIN: Yes, your Honor.

9 THE COURT: State is Jason Kopec K-O-P-E-C as well
10 Emily Stevens, S-T-E-V-E-N-S.

11 The Defense is Stephanie Hirschboeck, and
12 Miss Rose Costin, C-O-S-T-I-N.

13 They are getting the jury.

14 Could we have Roosevelt Davis, sir.

15 (SHORT PAUSE.)

16 THE COURT: Good afternoon.

17 You are Mr. Davis?

18 THE DEFENDANT: Yes.

19 THE COURT: Please have a seat right over there at
20 counsel table with your attorney.

21 Both sides are answering ready for trial.

22 I have the State as well as Defense, and
23 Defense has Investigator Stephanie Turner as a
24 potential witness.

1 With respect to additional voir dire
2 questions, the Defense has requested that I ask of all
3 if they know police officers, judges, or lawyers. That
4 used to be on the juror card. I am told it's not now
5 no longer on it.

6 State, you can make your request that we
7 discussed before the Court Reporter got here.

8 MS. STEVENS: Judge, the one question we requested
9 each juror be asked if they have moral, ethical, or
10 religious beliefs that would prevent them from entering
11 judgment against another.

12 THE COURT: And the Defense objected to that
13 question.

14 I'm not going to ask that question, during my
15 initial questioning of the 14.

16 If you feel a need to follow-up something
17 raised during the course of voir dire, once I'm done
18 with the 14, the general questions, I will tender the
19 cards to the Defense as well as State as to the
20 decision, you can ask whatever followups relevant to
21 the case.

22 Pretrial motions?

23 MR. KOPEC: State has some motions in limine.

24 THE COURT: Okay.

1 MS. COSTIN: Judge, if I could make the record, so
2 you are, your Honor, advised there was a motion to
3 quash arrest and suppress that was denied by Judge
4 Suria.

5 There was also a motion to disclose the
6 confidential informant, which was also denied by Judge
7 Suria.

8 THE COURT: All right. Thank you.

9 Also the State is asking based on this
10 written Motion in Limine, No. 1, prevent the Defense
11 from introducing any evidence either indirect or
12 directly about the possible punishment.

13 Is there any objection to that motion in
14 limine, just Point No. 1?

15 MS. COSTIN: No.

16 THE COURT: That will be granted.

17 Obviously the sentence that he is facing is
18 not relevant to the charges.

19 Next thing, go ahead, State, if you want to
20 produce any argument.

21 No. 2, you want to get into evidence
22 concerning his criminal history should he choose to
23 testify.

24 I'm going to hold my ruling in abeyance on

1 that issue.

2 State, you obviously can't bring up any
3 criminal background. If he does choose to testify, I
4 will address what, if any, prior convictions will come
5 in at that time.

6 No. 3, you want to prevent the Defense from
7 making any comments concerning police or prosecutorial
8 misconduct as portrayed in the media.

9 Defense you can argue with respect to this,
10 if you believe misconduct, if that is in fact your
11 theory of the case, but I take it the State, you don't
12 want to talk about wide-ranging issues as prosecutorial
13 misconduct that the Tribune wrote about, or any other
14 such other issues; is that what you are speaking about?

15 MR. KOPEC: Yes.

16 THE COURT: Do you intend on doing that, State, or
17 Defense?

18 MS. COSTIN: No.

19 THE COURT: Okay. That will be granted.

20 Certainly confine any of your comments
21 regarding misconduct on behalf of police or prosecutors
22 to what you believe occurred in this case and this case
23 alone.

24 No. 4, prohibit the Defense from introducing

1 evidence of the Defendant's character in the community.

2 Do you intend on doing that?

3 At this time, I'm going to grant their motion
4 in limine. If you want to revisit, if you choose to
5 call any witnesses during your case.

6 MS. COSTIN: We don't anticipate calling any
7 witnesses, only insofar as if Mr. Davis chooses to
8 testify, that he is allowed to testify to what he does,
9 where he goes, and who he lives with.

10 THE COURT: Of course, if he testifies, he will be
11 allowed to testify to that.

12 The motion in limine will be granted to any
13 other witnesses besides the Defendant.

14 No. 5, the State is prohibited from
15 introducing evidence of an order requiring
16 fingerprinting of the evidence or his request for
17 fingerprinting.

18 State, give me an argument on that or offer
19 of proof.

20 MR. KOPEC: Well, Judge, it's a interesting,
21 unique factual situation that came up in this case.
22 The motion was heard on 6 - 30, 2005.

23 After the motion, it was set down for trial
24 on August 4th. At that time, Judge Suria entered an

1 order requiring the evidence to be fingerprinted, but
2 the Defense also requested that the evidence be
3 produced for trial, and Defense demanded trial, so we
4 went motion State to 8- 4.

5 We contacted the Crime Lab and they indicated
6 they would not be able to complete a fingerprint order
7 by 8 - 4; and obviously, as a practical matter, if the
8 evidence went to the Crime Lab, it would not be
9 available for trial on 8 - 4.

10 So we had discussions with the Defense
11 Attorney, indicated to them the information, and they
12 indicated that they would rather have the evidence at
13 trial, rather than send it to the lab and wait for
14 fingerprints.

15 So our concern, again, technically, there is
16 an order that has not been complied with, I guess. The
17 bag has not been fingerprinted. We would object to
18 that being brought up. The factual situation that
19 occurred really prevented that from occurring.

20 THE COURT: A, I take it that the Defense, correct
21 me if I am wrong, you don't intend on introducing
22 evidence signed by the Judge in August.

23 Certainly you are not precluded from arguing
24 no fingerprints were taken initially, nor were any

1 ordered up until that date, but not intending to use
2 the Judge's order to argue that?

3 MS. COSTIN: We were told -- and we had a demand
4 running also -- it would take 18 months for the
5 fingerprints to be completed, so we had to make a
6 choice; and our choice is that, you know, we needed to
7 see the evidence. It's a major part of this case, so,
8 of course.

9 THE COURT: Okay. I think the State, I would
10 assume in fairness, the Defense can certainly comment
11 upon the fact that the State chose or the police chose
12 not to put in an order for fingerprinting on the date
13 of the arrest, or at any month after that.

14 You just are going to be precluded from you
15 can't talk about the order that was signed and then
16 trying to blame the State that it wasn't complied with,
17 I take it you are not going to do that anyway?

18 MS. COSTIN: No. We will blame the police
19 officers and not the State.

20 THE COURT: Okay.

21 MR. KOPEC: Should the Defendant testify, we are
22 also concerned that he would testify that an order was
23 signed by Judge Suria that did not --

24 THE COURT: We can address that motion, if in fact

1 he does testify.

2 Obviously, if he chooses to testify, the same
3 thing would go.

4 If you choose to testify, you can't talk
5 about that order for fingerprints that Judge Suria
6 signed just a couple of months ago, or a month ago,
7 right? That's off limit.

8 We will address if before he testifies, if
9 you choose to do that.

10 No. 6, prohibit the Defendant from listing
11 the State's failure to disclose information on the
12 informant as a witness in trial.

13 State, give me an argument on that.

14 MR. KOPEC: Judge, we had previously, or today
15 actually, the Defense presented a motion to produce a
16 CI. That was argued. Judge Suria denied that motion,
17 based on the fact the Defendant -- or CI was not
18 transactional to the case, so we would ask for a motion
19 in limine preventing the Defendant from arguing that
20 the State failed to call confidential informant as a
21 witness.

22 THE COURT: Do you intend to do that, State -- or
23 Defense?

24 I keep looking at you, State. I'm

1 misspeaking.

2 Go ahead, Defense.

3 MS. COSTIN: Judge, only thing we would ask, with
4 our own motion in limine, in order to preclude anything
5 the State did, confidential informant spot, police
6 officers, no detail.

7 They were called to the area, and based upon
8 information, there was an investigation, they spoke to
9 the person. There was an investigation, not to go into
10 any detail of this confidential informant that's not
11 going to be produced here at trial.

12 THE COURT: And if they are precluded from doing
13 that, you then in turn do not intend to get into where
14 the confidential informant is, is that correct?

15 MS. COSTIN: Yes, ma'am.

16 THE COURT: That would be my ruling. You will be
17 able to get in the fact that the officer may have had a
18 conversation with an individual, period, like where the
19 conversation occurred.

20 Subsequent to the conversation, you know,
21 where did the officer go or what did they do, but not
22 the contents of the conversation that the officer had
23 with the confidential informant.

24 MR. KOPEC: Judge, just to clarify that was a yes,

1 obviously the police in this case received a location,
2 a time, and a physical description of the Defendant.

3 If you are saying we can't elicit what those
4 physical descriptions were, are we able to say the
5 location?

6 THE COURT: You are right. You can't elicit. You
7 can't elicit the contents of the conversation with the
8 confidential informant.

9 For instance, the officer can't say I met
10 with an individual and was told to go to this location
11 and look for someone who is described as such at a
12 certain time.

13 What you can do is get into the fact that
14 there was a conversation with an individual, and you
15 may ask the officer what did he do subsequent to that
16 conversation, and he can detail where he went, and what
17 time he went, and what he was doing, pursuant to the
18 investigation, but not -- not that it came from the
19 confidential informant or what the exact details were.

20 MR. KOPEC: We can say, though, that they went to
21 this location based on a the tip and they found the
22 Defendant based on the tip?

23 THE COURT: Don't use the word tip.

24 Just say they had a conversation with the

1 individual. After the conversation, what did they do,
2 or what course did their investigation take, and they
3 can tell you what they did.

4 Warn them. I don't want them saying CI told
5 me A, B, C.

6 MS. STEVENS: Can they refer to the person as a
7 confidential informant or do you want them to refer to
8 them as an individual?

9 MS. COSTIN: I would say individual.

10 Based upon the information received from an
11 individual, we went to --

12 THE COURT: Just leave it at individual. I don't
13 really think it matters. I don't think the
14 terminology, the individual matters.

15 The point is you can't get into the contents
16 of the conversation with that person verbatim, but --

17 MS. STEVENS: If we can't disclose it was a
18 confidential informant and explain what a confidential
19 informant is, and therefore, to protect their safety,
20 that's why they are not here; if we just refer to them
21 as an individual, that might leave a question in the
22 jurors' minds, well, where is this individual?

23 And if we can explain there are confidential
24 informants, and that to protect anonymity and safety,

1 they are not being called as a witness; I mean, we
2 wouldn't say it like that, but explain what a
3 confidential informant is, based on that information
4 that person gave you, what did you do next, we went to
5 this area at this time and saw somebody that we were
6 looking for.

7 MS. COSTIN: So they are asking, if I may, they
8 are asking to prohibit us from saying anything about a
9 CI, but they want to explain what a CI is and why a CI
10 isn't here?

11 THE COURT: You can't have it both ways.

12 If you go into the explanation, I'm
13 precluding them from bringing where is the CI, and you
14 want to answer that question on your direct
15 examination, so I don't think that that's fair.

16 So you can call the person a confidential
17 informant during closing argument down the road, I
18 mean, perhaps that opens the door for some argument. I
19 don't know.

20 You can name the person however you want. It
21 doesn't matter to me. If it's an individual or you use
22 the word confidential informant, but tell the officers
23 before you call them, I don't want them saying what the
24 CI said when you ask them that question, what did you

1 do right after your conversation with this individual,
2 or confidential informant, what direction did your
3 investigation take, I don't want them to blurt out,
4 well, the informant told me such and such. That's why
5 we went here.

6 So warn them.

7 MS. COSTIN: If I may, why don't they just ask we
8 received information, that's it. We received
9 information, so we went to such and such a place.

10 They don't have to go into a person or --

11 THE COURT: It is the facts of the case. I'm not
12 going to shroud the facts of the case. It is what it
13 is.

14 They did it, assuming based on the all your
15 arguments, they had a conversation. I will let them
16 set that up, where it occurred, however long it took to
17 get to the next location.

18 I think everyone understands.

19 MS. COSTIN: With all due respect, we would like
20 to know beforehand where it took place, and we were
21 never tendered that.

22 We asked for disclosure, for where did
23 O'Grady talk to everybody.

24 THE COURT: If you are going to go into it, the

1 Defense has a right to know that.

2 I'm assuming all of that was documented in
3 reports.

4 MS. STEVENS: The reports just say the officers
5 had a conversation with a confidential informant.

6 MS. COSTIN: That's it.

7 MS. STEVENS: And the information that the
8 informant provided.

9 THE COURT: If you are going to go into anything
10 more than that, then tender to the Defense before you
11 put the officer on.

12 If you are going to get into where it
13 occurred, what time it occurred, et cetera, let them
14 know what you intend to ask so they have some knowledge
15 of it.

16 I assume they don't know if it occurred that
17 day, the day before, was it an hour before, half hour,
18 five days before; so if you are going to set that
19 foundation, at least certainly tell them the
20 particulars.

21 Last one is No. 7, State is to prevent the
22 Defense to attempt to identify the confidential
23 informant. That's going to be sustained based upon the
24 prior ruling.



Law Office of the
COOK COUNTY PUBLIC DEFENDER

69 W. WASHINGTON • 16TH FLOOR • CHICAGO, IL 60602 • (312) 603-0600

Edwin A. Burnette • Public Defender

June 4, 2007

Mr. Roosevelt Davis
Reg. No. N 73889
East Moline Correctional Center
100 Hillcrest Road
East Moline, IL 61244

In Re: appeals no. 06-1120

In response to your recent voice mails, I have received the transcript copies you sent, evaluated them and have determined not to supplement your opening brief.

Regarding the finger print issue, Ms. Hirschboeck informed me that just prior to trial, you indicated that the you preferred to start the trial, rather than wait for the testing. More importantly, failure of your trial attorneys to seek the test is not ineffective under Strickland v. Washington. Given the testimony of the arresting officer, a negative finding would not have been very probative - - as failure to produce your print could have been caused by myriad circumstances. And even without the testing, your lawyer was still in the position to argue that your prints were not found. Also deciding not to seek testing could be termed sound strategy, as the test could have produce a positive result.

In regards to the IPI 3.11, the record was insufficient to raise the issue, as the "inconsistency" was not discussed. The only inconsistent testimony I recalled wasn't sufficiently egregious to constitute reversible error - - as it was minor in nature, such as the make of car. In any event it was not sufficient to warrant error under Strickland.

And as I told you earlier, the issue regarding the ruling on your motion to quash is likewise meritless - - as the plain view doctrine clearly gave the officer probable cause to arrest.

Respectfully

A handwritten signature in black ink, appearing to read "Bruce C. Landrum". The signature is stylized with a large, looping "L" and a cursive "C".

Bruce C. Landrum
Assistant Public Defender

BCL

Exhibit D

1 At the close of State's evidence, the
2 Defense, if they choose, may introduce some evidence of
3 their own. They don't have to. They have no burden of
4 proof here.

5 At the conclusion of all the evidence, the
6 attorneys are going to make closing arguments to you.

7 Once closing arguments are concluded, that's
8 when I will give you instructions to the law you have
9 to follow, you will deliberate, and arrive at your
10 verdict.

11 With that, folks, I believe we are set to get
12 started.

13 Are both parties ready to proceed and give
14 opening statement?

15 MR. KOPEC: Yes, Judge.

16 THE COURT: State, you may address the jury.

17 MR. KOPEC: Good afternoon, everyone.

18 THE COURT: You may proceed, sir.

19 MR. KOPEC: Thank you, Judge.

20 OPENING STATEMENT

21 BY MR. KOPEC:

22 Ladies and gentlemen, the Defendant stands
23 before you today because he was caught red-handed.

24 Chicago police officer caught him with over one hundred

1 grams of cocaine.

2 And as the Judge has already introduced me,
3 my name is Jason Kopec and my partner's Emily Stevens.
4 We are Assistant State's Attorneys. We are
5 prosecutors.

6 Over today and tomorrow, we are going to
7 present evidence to you that proves to you beyond a
8 reasonable doubt that Defendant was in possession of
9 over one hundred grams of cocaine.

10 First witness you are going to here is
11 Chicago Police Officer Briones. He is going to tell
12 you that he is a Chicago police officer, and he works
13 in the narcotics unit.

14 He's going to tell you he had information
15 from a confidential informant, and that after he got
16 that information, he went to a place in the City of
17 Chicago, the corner of Balmoral and Lincoln up on the
18 North Side, and he and his team of officers, they
19 conducted an undercover surveillance.

20 They were not in uniform. They were not in
21 police cars. They were undercover blending into the
22 background.

23 They sat on the corner and they watched.
24 Their attention was drawn to the Defendant. He arrived

1 on the scene, and you will hear at the corner of
2 Balmoral and Lincoln, there is a Jiffy Lube.

3 Defendant pulled his car into the Jiffy Lube.
4 He didn't pull into any service bay. He parked it in
5 the parking lot.

6 He didn't go into the office of Jiffy Lube.
7 He got out of his car, stood on the sidewalk, and
8 proceeded to talk on a cell phone.

9 Officers just waited and they watched. They
10 watched the Defendant make phone calls; and eventually
11 after some time, he began walking westbound on
12 Balmoral. He walked about three blocks to Balmoral and
13 Western Avenue, and on that corner is a bus stop. The
14 Defendant sat down and waited at the bus stop at
15 Balmoral and Western.

16 One bus came by. Defendant never got on.
17 Two buses came by. Defendant just waited, waited at
18 that bus stop.

19 Until finally, an individual pulled up in a
20 car. You are going to hear about Mr. Martinez.
21 Mr. Martinez honked to the Defendant. Defendant
22 acknowledged that, and then Mr. Martinez, you will
23 hear, pulled around the building that's at the corner
24 of Balmoral and Western into a parking lot into the

1 rear; and the Defendant, he went into that car and got
2 into Mr. Martinez's car, passenger side.

3 You are going to hear Officer Briones, he was
4 watching him the entire time. In fact, as the
5 Defendant walked down Balmoral, Officer Briones
6 followed him down Balmoral, parked his car, and watched
7 him sitting at that bus stop.

8 And when the Defendant went and got into
9 Mr. Martinez's car, Officer Briones got out of his car
10 and he walked over there. He walked down the street a
11 little bit on the other side of the street, and then he
12 kind of doubled back to get a closer view what was
13 going on in that vehicle.

14 And as he got closer, he could see Martinez,
15 the driver, hand the Defendant a large bag of what were
16 narcotics, officer thought to be cocaine.

17 At that point, Officer Briones decided to
18 arrest the Defendant, so he came closer to the car
19 walking faster. The Defendant was literally caught
20 holding the bag.

21 What did the Defendant do? Looked up at
22 officer, saw him coming, and he shoved this bag into
23 the glove box, but it was too late. The officers
24 arrested the Defendant.

1 You are going to hear from another Officer
2 Cawley and Sergeant O'Grady. He is going to tell you
3 he was in charge of this surveillance. He saw the same
4 thing Officer Briones did.

5 He was on surveillance, saw Defendant come to
6 the Jiffy Lube, saw him making the phone call, saw him
7 waking down the street, saw him sitting at the bus
8 stop, not getting on any bus, saw him go over, get in
9 Mr. Martinez's car; but when he exited his vehicle to
10 approach the car that Martinez and Davis were in, he
11 came from the other side, and he saw the exact same
12 thing.

13 You are going to hear Sergeant O'Grady say he
14 saw Martinez sitting in the driver's seat and Defendant
15 sitting in the passenger seat, and he saw Martinez hand
16 Defendant a bag of what again Sergeant O'Grady thought
17 were narcotics, officer thought was cocaine. Both
18 Martinez and Defendant were arrested.

19 Sergeant O'Grady went directly to that glove
20 box where he saw the Defendant put the cocaine, and
21 retrieved the cocaine.

22 You are also going to hear, after the two
23 officers testify, you are going to hear a man named
24 Brian Stevenson. He is going to tell you he works for

1 Illinois State Police in the Crime Lab, and he is a
2 forensic chemist; and the young man is going to tell
3 you he is an expert witness. He is going to make some
4 expert opinions. The Judge will tell you, you can
5 believe those expert opinions.

6 What he is going to tell you is that he
7 received this in part of his duties, he took them to
8 his lab, performed scientific tests on this in his lab,
9 and he believes based on the tests and expert opinion
10 that this is in fact cocaine.

11 He is going to tell you in a sterile lab that
12 he has a calibrated weighing device. He weighed this,
13 and in his scientific expert opinion, this weighed
14 110.0 grams.

15 That's, ladies and gentlemen, the case the
16 State's going to present to you. That's really it.

17 When this case is done, my partner is going
18 to go over some of the jury instructions the Judge is
19 going to tell you what you are looking for. When you
20 compare the jury instructions that you are going to get
21 with the evidence you heard, we are going to ask you to
22 go into the jury room after this case is over and find
23 the Defendant guilty of possession of more than one
24 hundred grams of cocaine.

1 THE COURT: All right, State.

2 Defense, you may address the jury.

3 OPENING STATEMENT

4 BY MS. HIRSCHBOECK:

5 Good afternoon, ladies and gentlemen.

6 You know, it's very easy for the State to get
7 up here and tell you what they think their evidence is
8 going to show, but the fact is each of you has been
9 chosen as a juror in this case because of the unique
10 ability to listen and because of your willingness to
11 follow the law that Judge Brosnahan gives to you. This
12 is an opportunity for you to listen to the evidence and
13 come to your own conclusions, your own conclusions and
14 no one else's.

15 Be critical, ladies and gentlemen, of the
16 evidence that you hear in this courtroom. Listen,
17 observe, and watch the testimony as you hear it from
18 the witness stand, because you are going to hear
19 discrepancies, you are going to hear inconsistencies,
20 and you are going to hear contradictions, and listen to
21 the evidence and watch those witnesses.

22 As the State told you during the course of
23 the trial, you are going to hear a little bit about the
24 location where this happened. You are going to hear

1 about the location of Lincoln and Balmoral.

2 Lincoln is a very commercial street in that
3 area. There is a bus line. There is commerce,
4 businesses. There is traffic, especially at
5 2:00 o'clock in the afternoon in December.

6 There is actually a Jiffy Lube on the corner,
7 the State has told you, where the officers are going to
8 testify that they saw Mr. Davis park his car.

9 You are also going to hear about the area
10 where Mr. Davis was arrested, where Roosevelt Davis was
11 arrested, and that is Balmoral and Western, about three
12 blocks east.

13 Western, like Lincoln, is very busy. There
14 is four lanes of traffic. There is a couple of bus
15 lines. There is businesses up and down the street.

16 On the other hand, like many areas in the
17 City of Chicago, when you turn off of Western and when
18 you turn off of Lincoln, Balmoral is very quiet. It's
19 a very quiet, sort of oasis between two busy areas, and
20 that's where the State is telling you that Officer
21 Briones was able to follow Roosevelt Davis, was able to
22 shadow him in his car in this very quiet area.

23 And listen to this evidence, listen to the
24 story, because the story doesn't make sense. When they

1 arrest Roosevelt Davis, they told you about this car,
2 the car of Miguel Martinez, Co-Defendant. It's a 1996
3 Mercury Mystique.

4 That car has no connection to Roosevelt
5 Davis. He didn't own it. He didn't lease it. He
6 didn't drive it. He didn't borrow it.

7 The State can't tell you anything any
8 differently. No connection to this car. Again, listen
9 to the evidence, listen to what you hear. It doesn't
10 make sense.

11 The indictment is the charge in this case.
12 It is an accusation, and the fact is when the State
13 brings this indictment, they do so -- they do it
14 without regard to what they will be able to prove at
15 trial, because they don't know.

16 It is at trial where these questions are
17 answered. It is at trial where the State has the
18 burden of proof. It is to prove beyond a reasonable
19 doubt. That burden stays on the State throughout the
20 course of this trial.

21 Roosevelt Davis has pleaded not guilty. He
22 has asked for a jury trial; and as he sits there before
23 you, he is innocent.

24 Ladies and gentlemen, listen to the evidence.

1 Hold the State to its burden of proof, which is proof
2 beyond a reasonable doubt; and at the close of the
3 evidence, you will come back, we will ask for a verdict
4 of not guilty because Roosevelt Davis is not guilty.
5 He did not touch those drugs. He did not handle those
6 drugs. He did not possess any drugs, and he is not
7 guilty.

8 THE COURT: Thank you, Counsel.

9 State, are you prepared to call your first
10 witness?

11 MS. STEVENS: Yes, your Honor.

12 We call Officer Ruben Briones.

13 THE COURT: All right. Please bring in Officer
14 Briones.

15 (SHORT PAUSE.)

16 THE COURT: Okay. Officer, sir, will you please
17 raise your right hand.

18 (WITNESS SWORN.)

19 THE COURT: Please take a seat.

20 Keep your voice up nice and loud so everybody
21 can hear you.

22 You may proceed.

23 MS. STEVENS: Thank you, your Honor.
24

1 I received evidence from. And there is also the
2 initials of another evidence technician on the bag.

3 Q But the information the State was talking
4 about, you don't know who put that information on
5 there?

6 A I do not know.

7 MS. HIRSCHBOECK: Nothing further.

8 THE COURT: Okay. Thank you, sir. You may step
9 down.

10 (Witness Sworn.)

11 JAMES O'GRADY

12 called as a witness on behalf of the People of the
13 State of Illinois, having been first duly sworn, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KOPEC:

17 Q If you could please introduce yourself to
18 the jury. State your name name, spell your last name
19 for the benefit of the court reporter, and state your
20 Star Number and unit of assignment?

21 A My name is James O'Grady. I am a sergeant
22 with the Chicago Police Department. Star Number 2020.
23 O-G-r-a-d-y.

24 Q And sergeant, how long have you been with

1 the Chicago Police Department?

2 A Almost 20 years years.

3 Q And what's your unit of assignment?

4 A Narcotics and Gang Investigation Section.

5 Q And in your career approximately how many
6 narcotic investigations have you participated in?

7 A 2000 maybe.

8 Q Were you employed and working with the
9 Chicago Police Department back in December of 2004?

10 A Yes, I was.

11 Q Approximately December 16th you were
12 working?

13 A Yes.

14 Q And were you in charge a narcotics team?

15 A Yes, I was.

16 Q Did you and your fellow officers receive
17 information from an individual?

18 A Yes.

19 Q After you received that information, did you
20 and fellow officers proceed to set up an undercover
21 surveillance at Lincoln and Balmoral?

22 A Yes we did.

23 Q Is that in Chicago, Cook County, Illinois?

24 A Yes.

1 Q What is on the northeast corner of Lincoln
2 and Balmoral?

3 A It's a Jiffy Lube oil changing business.

4 Q Showing you what's marked as People's
5 Exhibit Number 6 for identification purposes, take a
6 look at that?

7 A Please tell the jury what that's a photo of?

8 A It's a street sign signs indicating Balmoral
9 and Lincoln with an Italian, I believe. Jiffy Lube
10 sign.

11 Q Does that accurately depict the corner of
12 Balmoral and Lincoln?

13 A Yes.

14 Q Officer, you said you were in charge of a
15 team that day. What type of dress were you and your
16 fellow team?

17 A We work narcotic investigations. We almost
18 always dress in plain clothes. No police identifiers.
19 Nothing indicating we were police officers at all.

20 Q Did you and your fellow team members have
21 any vehicles?

22 A Yes.

23 Q Were they blue and white Chicago police
24 cars?

1 A No. We were an assigned -- Actually we
2 lease cars from a car rental location. So we change
3 cars. Grand Prix, Intrepids, whatever car is
4 available.

5 Q Do any of these vehicles that you and your
6 team members were using that date did they have M.
7 plates on them?

8 A No.

9 Q Were they Fords, Crown Victoria's, or Chevy
10 Caprise's?

11 A No.

12 Q Did you proceed to the area of Lincoln and
13 Balmoral?

14 A Yes.

15 Q And you were on surveillance?

16 A Yes.

17 Q On your surveillance was your attention
18 drawn to one specific person?

19 A Yes.

20 Q Do you see that person in court today?

21 A Yes, I do.

22 Q Please identify him by something that
23 individual is wearing today?

24 A He is the gentleman to my right wearing a

1 white shirt with a blue tie and brown pants.

2 THE COURT: The record will show the sergeant has
3 identified Mr. Davis. You may proceed.

4 MR. KOPEC:

5 Q Officer, you previously testified that you
6 received information which led you to that area?

7 A Yes.

8 Q Was your attention drawn to anyone at that
9 area other than Defendant?

10 A We looked at just any individual pulled in
11 the lot and see what they did. If they matched the
12 description --

13 MS. HIRSCHBOECK: Objection.

14 THE COURT: Sustained. That part of the answer
15 will be stricken. Pose another question.

16 MR. KOPEC:

17 Q Officer, you focused on the Defendant?

18 A Yes.

19 Q What did you observe the Defendant do?

20 A We observed the Defendant pull into the
21 Jiffy Lube parking lot towards the side and rear. He
22 didn't go inside the Jiffy Lube. He just stood by his
23 car and was using a cell phone.

24 Q When you say the Defendant didn't go inside

1 the Jiffy Lube, did you observe the Defendant drive
2 into any of the service bays?

3 A No.

4 Q Did he go into the office area of the Jiffy
5 Lube?

6 A No.

7 Q You observed the Defendant talking on his
8 cell phone?

9 A Yes.

10 Q What did you do then?

11 A We maintained surveillances on him.

12 Q Did the Defendant at some point move
13 locations?

14 A Yes, after about five minutes.

15 Q Where if anywhere did he go?

16 A He started walking east on Balmoral are
17 towards Western.

18 Q And what if anything did you do?

19 A I directed other officers on my team to
20 maintain surveillance on the subject as he walked
21 eastbound.

22 Q Were you in radio contact with other members
23 of your team?

24 A Yes.

1 Q And what did you specifically do after the
2 Defendant was walking east on Balmoral?

3 A I let him get about half a block in front of
4 me where I could still see him. And then I followed
5 him like I was in normal flow of traffic. And I
6 actually went pass him. And right up to the team
7 members that he was still walking eastbound.

8 Q At some point the vehicle you were driving,
9 did you come to a stop?

10 A Yes.

11 Q Where did you eventually stop?

12 A Well Balmoral ends at Western. So I had to
13 go either left or right. As he was nearing the corner
14 I decided to take a right hand turn.

15 Q What did you do after you made a right hand
16 turn? You would be going south on Western?

17 A South on western.

18 Q Where did you go?

19 A Maybe 50 feet south of the corner.

20 Q And what did you do then?

21 A I parked.

22 Q And were you able to observe the corner of
23 Western and Balmoral?

24 A Yes.

1 Q And what if anything did the Defendant do
2 then?

3 A Talked on his cell phone. He sat at the bus
4 stop at Balmoral and Western.

5 Q Showing you what's been previously marked as
6 People's Exhibit Number 2 for identification purposes.
7 Officer, is that photo of the bus stop at Balmoral and
8 Western?

9 A Yes.

10 Q Does that photo truly and accurately depict
11 the bus stop at Balmoral and Western?

12 A Yes.

13 Q Is that the bus stop you saw the Defendant
14 at?

15 A Yes.

16 Q How were you able to observe the Defendant
17 at that location?

18 A I could see him in my rear-view mirror
19 inside my mirrors.

20 Q And you continued watching the Defendant?

21 A Yes.

22 Q And what if anything did he do?

23 A He sat there for about a half an hour just
24 talking, sitting doing nothing or talking on the cell

1 and your Honor made the ruling that the State could
2 make an objection to a confidential informant.

3 Today during closing argument the State began
4 tjeor argument by saying Mr. Davis got caught by a
5 citizen. That objection was sustained, Judge. She
6 then closed her argument by saying the case started
7 with a citizen. Judge, it's improper? It's
8 prejudicial. It bolsters their case in a way that is
9 certainly not proper. And we ask that your Honor grant
10 our motion for mistrial based on that.

11 THE COURT: Thank you. Response?

12 MR. KOPEC: Judge, your ruling both of those
13 statements by prosecutor not only were in compliance
14 with your Honor's pre-trial ruling, but were in
15 compliance with the evidence elicited at trial. Your
16 Honor allowed us to say that police received
17 information from a confidential informant. And I
18 believe with respect to the first part, the first
19 statement is taken out of context because I believe
20 what Ms. Stevens actually said he was caught because of
21 the good police work of the officers, a few other
22 things and then added this information from a citizen,
23 which was allowed -- we were allowed to elicit. So
24 that was completely in line with what the evidence and

1 with your ruling.

2 Finally, with respect to the last statement
3 that started with a citizen. Again, that's in
4 compliance with your ruling. No information -- that
5 statement doesn't elicit any information that that
6 citizen provided which is what your Honor prohibited us
7 from getting out. Just said in compliance with your
8 ruling, in compliance with the evidence that a citizen
9 started this all, which again is the evidence, Judge.

10 THE COURT: All right. Thank you. Listening to
11 the argument both sides. My ruling was that it could
12 come in that the police officers got information from a
13 citizen or from an informant as a basis to show the
14 course of their investigation. Why they did what they
15 did. However, when the State argued during closing
16 argument it was improper in the way that it was being
17 argued. It was going to the truth of the matter. That
18 the contents of those conversations were true and
19 accurate and therefore allowed the police over there.
20 That was not the intent of my earlier ruling. Just to
21 explain a course of conduct. Not that the contents of
22 that conversation should be used to bolster the police
23 investigation.

24 However, on those objections were sustained.

1 objection was overruled.

2 Finally on page 95 I stated, "This case
3 started with a citizen." And that was objected to, and
4 your Honor sustained that and told the jury to
5 disregard that.

6 I just would refer back to the Court's
7 original ruling on the motion in limine which is on
8 page 14. Your Honor stated that we can call a person a
9 confidential informant during closing arguments. And
10 you stated that you can name the person however you
11 want. In closing argument I named the person as a
12 citizen, which is true. The person is a citizen. I
13 don't believe that we went beyond the bounds of your
14 Honor's motion in limine. I believe when Officer
15 Briones was questioned that nothing regarding the
16 contents of the conversation was permitted to be heard
17 by the jury. And in closing argument we responded
18 about the investigation. And that investigation led to
19 more investigation. And that was the extent of it.

20 Judge, based on those reasons, we would ask
21 that you deny counsel's motion for a new trial.

22 THE COURT: All right. Thank you, counsel. Any
23 response?

24 MS. COSTIN: Yes.

CASE NO. 08cv3710

ATTACHMENT NO. _____

EXHIBIT 1

TAB (DESCRIPTION) _____

Exhibit E

1
2 IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT - CRIMINAL DIVISION

3 THE PEOPLE OF THE)
STATE OF ILLINOIS)
4)
vs) No. 05 C 2672
5)
ROOSEVELT DAVIS)
6)


7 REPORT OF PROCEEDINGS of the hearing before the
8 Honorable MARY MARGARET BROSNAHAN, on the 18th day of
9 August, 2005.

10 APPEARANCES:

11 MR. RICHARD DEVINE
12 State's Attorney of Cook County, by
MS. EMILY STEVENS
13 MR. JASON KOPEC
Assistant State's Attorneys
14 for the People of the State of Illinois.

15 MR. EDWIN BURNETTE
Public Defender of Cook County, by
16 MS. ROSE COSTIN
MS. STEPHANIE HIRSCHBOECK
17 Assistant Public Defenders
for the Defendant.
18

19
20
21 Sharon T. McClain, CSR, RPR
Official Court Reporter
22 Criminal Division
2650 South California
23 Chicago, IL 60608
24



1 both the issues instructions. One of them listed as
2 propositions.

3 THE COURT: The first one is the definition
4 instruction. The second is the issues instruction. So
5 you need both of them. So that would be Number 7 is
6 without objection. Now Number 8, which is 17.28.
7 That's the issues. No objection to that.

8 The next one is 2.02 regarding the charging
9 document.

10 MS. KOSTIN: No objection.

11 THE COURT: That will be given as Number 9,
12 without objection.

13 The next one is 2.03. The presumption of
14 innocent.

15 MS. HIRSCHBOECK: No objection.

16 THE COURT: All right.

17 Number 10 without objection, 2.04 is
18 indicating the fact that the Defendant did not testify.
19 Based upon your representations, I am going to take
20 that out. Obviously he can certainly change his mind,
21 and then we'll just put it back in if he does. But
22 right now I am going to put that off to the side.

23 So now the next instruction is 3.11 which at
24 this point would be instruction Number 11.

1 Believability of a witness for impeachment.

2 MR. KOPEC: There are two.

3 THE COURT: Is there any basis for the first one,
4 which includes witnesses earlier inconsistent
5 statement? Do we have any prior under oath testimony?

6 MS. KOSTIN: That's inconsistent?

7 THE COURT: Yes.

8 MS. HIRSCHBOECK: Grand jury.

9 THE COURT: So you would be arguing based upon the
10 impeachment?

11 MS. KOSTIN: Yes. And the motion.

12 THE COURT: I believe that's 3.11. And I will
13 hear arguments later on this if you want to think about
14 it a little bit more. But 3.11 I believe is generally
15 used when somebody goes against their earlier
16 statement. Substantively the State is attempting to
17 argue the prior sworn statement is substantive evidence
18 versus in this case we're simply talking about
19 impeachment. So I am going to not give the first one,
20 3.11. And I will give the second one which is just the
21 one paragraph that doesn't include that language. And
22 that will be given as Number 11. And that's over
23 objection?

24 MS. HIRSCHBOECK: Over objection.

1 THE COURT: Now we're on 3.13. So that would be
2 evidence of the Defendant's conviction.

3 MS. HIRSCHBOECK: If your Honor allows it.

4 THE COURT: All right. We'll have to discuss this
5 one as well. And then the next one is the concluding
6 instruction. Is there any objection to that?

7 MS. HIRSCHBOECK: No.

8 THE COURT: 26.01.

9 The first verdict form is the not guilty.
10 And the second is the guilty. Any objection to those?

11 MS. HIRSCHBOECK: No, ma'am.

12 THE COURT: Now lastly, this is the prim
13 instruction. So we don't need that.

14 MS. KOSTIN: Yes.

15 THE COURT: Hopefully. We'll hold on to that and
16 see if we need that later.

17 So the jury instructions that basically
18 covers everything other than the issue of whether or
19 not the Defendant is going to testify and the
20 Defendant's provables, whether they do or not come in?

21 MS. STEVENS: The chemist is here. We can go
22 ahead and call him.

23 THE COURT: May I please have the jury brought
24 out.

1 THE COURT: State ready to call your next witness.

2 MS. STEVENS: We are. State calls Brian
3 Stevenson.

4 (Witness Sworn.)

5 BRIAN STEVENSON

6 called as a witness on behalf of the People of the
7 State of Illinois, having been first duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. STEVENS:

11 Q Please introduce yourself to the ladies and
12 gentlemen of the jury?

13 A My name is is Brian Stevenson.

14 Q Where are you employed?

15 A I am employed with the Illinois State Police
16 at the Forensic Center in Chicago,

17 Q How long have you worked there?

18 A At the Forensic Science Center in Chicago.
19 I have worked there since December of 2004.

20 Q What is your current job with the Forensic
21 Science?

22 A I am a forensic scientist. I am a drug
23 chemist.

24 Q How long are you been in that particular

1 position?

2 A For about a year and 8 months.

3 Q What are your duties at that location?

4 A I analyze evidence for the presence or
5 absence of controlled substances, and then testify upon
6 my findings when I am called to do so.

7 Q What is your education?

8 A Bachelor of science degree from the
9 University of Illinois in Champaign in chemistry.

10 Q Have you completed any training programs?

11 A Yes. I have had a year of training in drug
12 chemistry with the Illinois State Police.

13 Q And how many times have you tested for the
14 presence of a controlled substance?

15 A Probably around one thousand or so.

16 Q Have you ever been qualified as an expert
17 witness in the field of forensic chemistry?

18 A Yes, I have.

19 Q How many times?

20 A Once

21 MS. STEVENS: At this time subject to cross
22 examination we tender the witness as an expert in the
23 field of forensic chemistry.

24 THE COURT: Any cross examination at this time

1 MS. HIRSCHBOECK: No, Judge. No cross based on
2 that.

3 THE COURT: You may proceed. The witness will be
4 treated as an expert in the field of forensic
5 chemistry.

6 MS. STEVENS:.

7 Q In working on this case did you prepare any
8 notes?

9 A Yes I have.

10 Q And referring to those notes assist you in
11 your testimony today?

12 A Yes it would.

13 MS. STEVENS: Your Honor, if there is no objection
14 from the defense I would ask the witness be allowed to
15 refer to those notes if he needs to.

16 THE COURT: All right, he may. Any objection

17 MS. HIRSCHBOECK: No.

18 MS. STEVENS."

19 Q Sir, I want to show you what's previously
20 marked as People's Exhibit Number 4. Do you recognize
21 what this is?

22 A Yes, I do.

23 Q And how do you recognize that?

24 A It has my markings on it.

1 Q Now, can you open that exhibit and take it
2 out, its contents.

3 Sir, do you recognize the contents contained
4 in People's Exhibit Number 4?

5 A Yes, I do.

6 Q Can you examine those contents and tell the
7 ladies and gentlemen what it is?

8 A I have a heat sealed bag containing white
9 chunky substance, some powder, and a plastic -- knotted
10 plastic bag.

11 Q Have you seen this exhibit before?

12 A Yes I have.

13 Q From whom did you receive this evidence?

14 A Gina Wollick.

15 Q And do you remember when you received it?

16 A December 22, 2004.

17 Q Where did you receive the evidence?

18 A I received it at the Forensic Science Center
19 in Chicago at the drug chemistry vault.

20 Q And what condition was that evidence in when
21 you received it?

22 A It was sealed.

23 Q And is that evidence in substantially the
24 same condition now as it was when you initially

1 received it?

2 A It is.

3 Q And what did you do with that evidence after
4 you received it?

5 A I took custody of it. I initialed the
6 evidence bag, and then I brought it to my work station
7 and locked it in my storage area until I worked it.

8 Q And does the substance inside that bag
9 appear to be the same substance that you analyzed when
10 you first received the item?

11 MS. HIRSCHBOECK: We are going to object now to
12 chain.

13 THE COURT: Overruled. You may cross on it. Go
14 ahead.

15 MS. STEVENS:

16 Q You can answer the question. Does the
17 substance inside the bag appear to be in the same --
18 the same substance that you analyzed?

19 A Yes, it does.

20 Q What was the first thing you did when you
21 received that bag from the vault?

22 A When I took custody of it?

23 Q Yes.

24 A I took custody in the computer, and then I

1 initialed the bag and brought it to my work station.

2 Q Okay. And when you got to your work
3 station, what did you do with the bag?

4 A I locked it in my drawer until I worked it.

5 Q And when did you work up that evidence?

6 A The same day.

7 Q And after you retrieved the evidence from
8 your locked drawer, what did you do with it?

9 A I examined the inventory sheet that came
10 with the evidence to make sure it matched up. And then
11 I opened it, wrote a description on my work sheet of
12 the evidence, and then after that I weighed it.

13 Q And did the description on the inventory
14 sheet match the substance that was inside that
15 envelope?

16 A It did.

17 Q And after you opened the envelope, what did
18 you do with what was inside?

19 A Well, first I placed a disposable weighing
20 dish on my balance and zeroed it so it would read zero;
21 wouldn't record the weight of the dish. And then I
22 placed the chunky substance inside the weighing dish.

23 Q Now when you first saw the chunky substance,
24 was it inside of the plastic bag that's also in that

1 inventory envelope?

2 A Yes, it was.

3 Q Did you take the chunky substance outside of
4 that smaller bag?

5 A Yes, I did.

6 Q And then you placed that chunky substance on
7 to that disposable dish that you talked about?

8 A Right.

9 Q Now when you say disposable dish, how many
10 times were these dishes used?

11 A Only one time.

12 Q And after you placed the substance on that
13 dish, what did you do?

14 A I weighed it.

15 Q And did that weight include the dish that
16 the substance was sitting in?

17 A It did not include the dish.

18 Q And was the equipment that used to determine
19 the weight of the substance operating properly at the
20 time of your analysis?

21 A Yes.

22 Q How do you know that?

23 A I checked it.

24 Q How did you check it?

1 A At the beginning of the week before I begin
2 case work I place certified waits on the balance and
3 then I check the reading to make sure they match.

4 Q And is the scale that you use also
5 calibrated?

6 A The balance is calibrated, yes.

7 Q And do you personally calibrate the balance?

8 A I do not.

9 Q Who does that?

10 A An outside company calibrates the balance.

11 Q And do you know whether or not that scale or
12 the weight had been calibrated prior to weighing the
13 sample

14 MS. HIRSCHBOECK: Objection, judge hearsay.

15 THE COURT: Overruled. You may tell us if you
16 know.

17 THE WITNESS: The balance HAD not been calibrated.

18 MS. STEVENS:

19 Q And what was the total weight of this
20 evidence, excluding the packaging?

21 A 110 grams.

22 Q And did you analyze that evidence?

23 A Yes, I did.

24 Q What was the first test that you did?

1 A I did a color test.

2 Q And can you explain what this test is?

3 A I used a drop of cobalt vial cyanide. And I
4 added a drop of it to the sample, and the sample turns
5 blue, which gives an indication that cocaine may be
6 present.

7 Q And did the sample turn blue in this case?

8 A Yes.

9 Q And would you say the results of that test
10 were positive?

11 A Yes.

12 Q And what was the next test that you did?

13 A I then did a gas chromatography mass
14 spectrometer test, otherwise known as a G.C.M.S..

15 Q Can you explain what that test is?

16 A I take an a representative sample, dissolve
17 it in a liquid. It's injected into an instrument the
18 G.C.M.S. The first part of it the G. C. part, gas
19 chromatography. It separates any mixture that might be
20 in the sample into it's component compounds. And when
21 the compound reaches the mass spectrometer, the M.S.,
22 the compound is broken into fragments and this gives us
23 structural information to identify the compound.

24 Q What were the results of the first part of

1 the G. C.?

2 A I didn't look at the G. C. part. I only
3 looked at the mass spec.

4 Q What was the result of the mass spec?

5 A Positive for cocaine.

6 Q Did you do any test to assess the operating
7 conditions of the G.C.M.S.?

8 A The G.C.M.S. has routine maintenance weekly.

9 Q And do you know whether or not that
10 particular device had been maintained prior to using it
11 that day?

12 A Yes.

13 Q Yes it had?

14 A It had.

15 Q And prior to conducting that test--

16 MS. HIRSCHBOECK: Objection to the foundation of
17 that.

18 THE COURT: You may cross on it. Go ahead.

19 MS. STEVENS:

20 Q Did you run a blank through the G.C.M.S.
21 prior to performing your test on this evidence?

22 A Yes, I did.

23 Q And what was the result of that?

24 A Negative.

1 THE COURT: Can you explain what that means for
2 us?

3 THE WITNESS: The blank?

4 THE COURT: Right.

5 THE WITNESS: It's run through the sample to make
6 sure that the instrument is operating properly. That
7 the instrument is clean. There is no cocaine in it
8 before I ran the sample.

9 Q And after you ran the sample, did it show
10 that the machine was clean?

11 A After I ran the blank it showed the
12 instrument was clean.

13 Q Okay. And the test that you performed that
14 day are these tests commonly accepted in the
15 scientific community?

16 A Yes they are.

17 Q After completing the analysis, what did you
18 do with the evidence?

19 A I sealed it back in a new bag and then
20 resealed it in the originals evidence bag.

21 Q Did you place the cocaine back into the
22 original plastic baggy it was in?

23 A No, I didn't. It's in this bag.

24 Q And based on your education, training and

1 experience in drug chemistry and the tests that you
2 performed, did you form an opinion within a reasonable
3 degree of scientific certainty as to the presence of a
4 controlled substance in that exhibit?

5 A Yes, I did.

6 Q And what this opinion?

7 A That this is 110 grams of white chunky
8 substance containing cocaine.

9 Q This inventory envelope that you received
10 and took the evidence out of, did this inventory number
11 have the unique inventory number of 10452143?

12 A Yes

13 MS. STEVENS: Can I have one moment?

14 THE COURT: Certainly.

15 MS. STEVENS:Q Mr. Stevenson, just one more
16 question. Have you ever met the Defendant before?

17 A No I have not.

18 MS. STEVENS: Nothing further.

19 THE COURT: Cross.

20 CROSS EXAMINATION

21 BY MS. HIRSCHBOECK:

22 Q Mr. Stevenson, if I could borrow your notes.
23 I think we might have to share them. My understanding
24 you didn't bring your own notes?

1 A That's correct.

2 Q Mr. Stevenson, you indicated you've been
3 with the Illinois State Police since December of 2003;
4 is that correct?

5 A That's correct.

6 Q And then you trained for about a year; is
7 that right?

8 A That's correct.

9 Q And you actually finished your training in
10 November of 2004?

11 MS. STEVENS: Objection, Judge. He has already
12 been qualified.

13 THE COURT: Overruled. She may cross on it. Go
14 ahead

15 MS. HIRSCHBOECK:

16 Q You completed training in November of 2004;
17 is that right?

18 A That's correct.

19 Q And you performed your tests on this cocaine
20 December 21 of 2004?

21 A December 22.

22 Q It was received December 21, right. So you
23 performed your test the following day?

24 A I am not sure when it was received, but I

1 know I performed the test the 22.

2 Q Well, would you like to see your report or
3 if I said it indicates December 21, 2004 would that be
4 accurate?

5 A I have to see the inventory sheet I believe.

6 Q Showing what I am marking Defense Number 2.
7 Can you describe to the court what this is, please?

8 A This is a copy of the inventory sheet that
9 accompanies the evidence.

10 Q And showing you what I am marking also as
11 Defense Number 3, what is this document, please?

12 A This is my lab report.

13 Q And does the lab report indicate when the
14 evidence was received by the Forensic Science Center?

15 A It does not.

16 Q Does it indicate it was received --

17 A I am sorry; yes.

18 Q December 21?

19 A Yes.

20 Q So that in fact would be when it was
21 received by the Forensic Science Center?

22 A I believe so.

23 Q Which would be the day before you tested it;
24 right?

1 A Yes.

2 Q And that was a little more than a month
3 after you received your training, 6 months perhaps?

4 A Yes.

5 Q So at that point that you performed the
6 testing, you had been out of your training for about 6
7 weeks, correct?

8 A That's correct.

9 Q And the State asked you about the Inventory
10 Number on this, which you previously stated was
11 10452143; is that correct?

12 A 10452143.

13 Q And that is the inventory sheet that you
14 received from the Chicago Police Department; right?

15 A Right.

16 Q And that is the inventory sheet that
17 reflects one clear plastic knotted bag containing a
18 white rock like substance, suspect cocaine, correct?

19 A Correct.

20 Q There is no weight reflected on this
21 inventory sheet; is that correct?

22 A That's correct.

23 Q And I believe you made reference to somebody
24 named Gina Wollick; is that correct?

1 A That's correct.

2 Q And is that who you said that you received
3 this evidence from?

4 A Yes.

5 Q And who is Gina Wollick?

6 A She is another analyst at the lab who was
7 working at the vault that day.

8 Q Where did she get it from you?

9 A She's probably designee by one of the
10 evidence technicians.

11 Q So in fact you don't really even know where
12 she got this evidence from, is that correct?

13 A I don't know.

14 Q And she is not here today?

15 A No.

16 Q And she is not here to explain where the
17 evidence came from; is that correct?

18 A That's correct.

19 Q In so in fact, sir, you don't have any idea
20 where this came from before she had it?

21 A I don't know.

22 Q Or where it had been before she got it?

23 A I don't know.

24 Q Or where Ms. Wollick received the evidence

1 from?

2 A I don't know.

3 Q Or if in fact it had been in a vault or
4 where it had been?

5 A She probably received it from the vault.

6 Q But you don't know that, is that correct?

7 A When the cases are received from the Chicago
8 Police Department after they are brought in to the
9 evidence control center they are brought to the vault.

10 Q But you don't have any personal knowledge of
11 when Ms. Wollick received it?

12 A I did not witness her receiving it.

13 Q That's my question?

14 A Yes.

15 Q You also indicated you were at the vault --
16 You were ask about the scales that the drugs were
17 weighed on is that correct?

18 A The balance; yes.

19 Q And you said the balance is checked at the
20 beginning of the week?

21 A Yes.

22 Q And other people use that balance; correct?

23 A No.

24 Q Do you know how many times drugs have been

1 weighed on that balance since the beginning of the
2 week?

3 A No.

4 Q So you don't know in fact how many times
5 that scale had been used since the beginning -- used
6 since the weight had been checked; is that correct?

7 A I do not know.

8 Q Could it have been ten times?

9 A Possibly.

10 Q Could it have been 50?

11 A I don't know.

12 Q And in fact the reason you checked the
13 weight is to make sure it's accurate, is that correct?

14 A That's correct.

15 Q And you don't know whether there was several
16 days after the balance had been initially checked,
17 right?

18 A Right.

19 Q You also said that the balance is
20 calibrated, that is correct?

21 A Yes.

22 Q And that's done by an outside company?

23 A Yes.

24 Q And you don't have any documentation from

1 the outside company with you here today, do you?

2 A No I do not.

3 Q So you don't know when that balance was
4 calibrated prior to the time you weighed it?

5 A I do know.

6 Q But you don't have documentation with you?

7 A Not with me.

8 Q And you never weighed any packaging; is that
9 correct?

10 A That's correct.

11 Q And you said that this came -- just so I am
12 clear. It came in a plastic baggy?

13 A Yes.

14 Q And the plastic baggy comes in the inventory
15 bag?

16 A Yes.

17 Q And you don't have that plastic baggy?

18 A It's with the evidence.

19 Q You never weighed it?

20 A I never weighed it; no.

21 Q Is it with the evidence?

22 A Yes.

23 Q This bag at the bottom?

24 A Right, right.

1 Q And you described white chunky substance
2 when you describe this cocaine; is that right?

3 A That's correct.

4 Q And you are familiar that there is also
5 powder cocaine, is that correct?

6 A That's correct.

7 Q And powder cocaine is different from chunky
8 cocaine; right?

9 A Well, the chunky substance can be kind of
10 crushed up into a powder?

11 Q I understand that. But you've also done
12 testing on what you call powder cocaine, is that
13 correct?

14 A Yes.

15 Q And powder cocaine is actually powder;
16 right?

17 A Yes.

18 Q And when you look at this you describe this
19 as chunky, correct?

20 A Yes.

21 Q In fact, you prepared notes in this case, is
22 that correct?

23 A Yes.

24 Q And your notes describe the substance as

1 chunky substance; is that correct?

2 A That's correct.

3 Q You don't describe it as powder substance?

4 A No.

5 MS. HIRSCHBOECK: Nothing further.

6 THE COURT: Any redirect?

7 REDIRECT EXAMINATION

8 BY MS. STEVENS:

9 Q This evidence was recovered from the vault
10 where you work?

11 A That's correct.

12 Q And when you were handing what we have
13 identified as People's Exhibit Number 4, this bag that
14 you first received was sealed, is that correct?

15 A That's correct.

16 Q And the bag that you received into your
17 custody had a name of a person on it, is that correct,
18 of an arrestee or Defendant's name?

19 A Yes.

20 Q And what was the name on the front of that
21 bag?

22 A Davis, Roosevelt.

23 Q Did you write that name on there?

24 A I did not.

1 the bag of cocaine that was recovered from the glove
2 box in this case?

3 A Yes. It's broken up into smaller pieces,
4 but yes.

5 MR. KOPEC: Nothing further

6 THE COURT: Thank you, sir. Defense may proceed.

7 CROSS EXAMINATION

8 BY MS. COSTIN:

9 Q Officer you're saying this is broken up into
10 smaller pieces?

11 A Yes.

12 Q It was in a big chunk when you saw it?

13 A Bigger chunk; yes.

14 Q Now you're's the supervising officer on this
15 matter?

16 A Yes.

17 Q And you signed off on the report?

18 A Yes.

19 Q Do you remember signing off on a report
20 saying it was powder cocaine recovered?

21 A Yes.

22 Q You signed off on three separate reports
23 saying it was powder cocaine that was recovered?

24 A Yes.

1 Q And there is a difference between powder and
2 rock cocaine?

3 MR. KOPEC: Objection.

4 THE COURT: Overruled.

5 MS. KOSTIN:

6 Q There is a difference between rock and
7 powder?

8 A Depends what you mean. If you're referring
9 to crack cocaine. Powder cocaine and cocaine is the
10 same thing.

11 Q A powder is like talcum powder?

12 A I am not sure what you're asking me

13 MS. KOSTIN: I'll withdraw it.

14 Q Now, officer you say you went down Balmoral?

15 A Yes.

16 Q And that's an one-way street?

17 A Yes.

18 Q And you were all headed east?

19 A At which time.

20 Q Were you headed east down Balmoral after you
21 left Lincoln and Balmoral. You headed east?

22 A Yes.

23 Q And you passed by Mr. Davis?

24 A Yes.

1 Q To your knowledge how many other officers
2 passed by Mr. Davis into--

3 MR. KOPEC: Objection.

4 THE COURT: Overruled. You may tell us if you are
5 aware of that. From personal knowledge.

6 A At least three of us.

7 Q And this is a quiet street?

8 A Relatively, yes.

9 Q It's a residential street?

10 A Yes.

11 Q And when you came around you went around and
12 you parked on the south side of western?

13 A That's not possible. South of Balmoral on
14 the west side of western.

15 Q So you parked on that corner. And you
16 parked with your back towards the bus stop?

17 A Yes.

18 Q And you were on the corner approximately on
19 the corner of there?

20 A No I was probably maybe four or five -- 3 or
21 4 car lengths south of the corner.

22 Q About 50, 60 feet?

23 A Maybe not even. Maybe 40 feet.

24 Q 40 feet in?

1 A Yes.

2 Q And you're saying Officer Briones is the one
3 that called you and told you that there was a car going
4 the wrong way up Balmoral?

5 A Yes.

6 Q And alerting the other officers?

7 A Yes.

8 Q You are a supervising officer. So you tell
9 the other guys what to do; right?

10 A I don't think they see it like that but
11 yeah.

12 Q Well you didn't get fingerprints in this
13 case off the glove compartment?

14 A No.

15 Q You didn't get fingerprints off the bag?

16 A No.

17 Q You didn't get fingerprints off the money
18 money?

19 A No.

20 Q No money was recovered?

21 A There was money recovered. I can't remember
22 who had the money.

23 Q Show you what's previously been marked
24 Defense Exhibit Number 1 for identification. Is your

1 And the jury was instructed to disregard those
2 comments. I feel that limiting instruction, those
3 comments would have cured any problem. Therefore the
4 motion for a mistrial will be respectfully denied.

5 (A recess was taken.)

6 THE COURT: The Sheriff indicates the jury has
7 reached a verdict; is that correct?

8 What I did want to put on the record was
9 about 3:40 I received a note from the jury that said,
10 "Officer Briones supplemental report." Apparently
11 that's what they were looking for. I contacted Ms.
12 Hirschboeck by phone as well as Mr. Kopec. And the
13 response was drafted that both sides agreed was,
14 "Police reports are not evidence. You have heard all
15 the evidence in the case. Please continue to
16 deliberate, which I signed and dated 8-18-05 at 3:42
17 p.m.

18 Okay. The jury has reached a verdict.
19 Please bring out the jury.

20 Mr. Foreman can you please tender the
21 verdicts to the sheriff. The jury has reached a
22 verdict. It appears to be in order. The jury verdict
23 is as follows. "We the jury find the Defendant
24 Roosevelt Davis guilty of possession of a controlled

*B. Landrum / J. Rogers*NOTICE

The text of this order may be changed or corrected prior to the time for filing of a Petition for Rehearing or the disposition of the same.

RECEIVED

THIRD DIVISION
NOVEMBER 28, 2007

7 NOV 28 12:03

APPEALS DIVISION ¹⁰⁵⁻³⁷⁸⁶
COOK COUNTY
PUBLIC DEFENDER IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

ROOSEVELT DAVIS,

Defendant-Appellant.

Appeal from the
Circuit Court of
Cook County.

No. 05 CR 2672

Honorable
Mary Margaret Brosnahan,
Judge Presiding.ORDER

Following a jury trial, defendant was charged with possession of a controlled substance and sentenced to eight years in prison. Defendant failed to prove him guilty beyond a reasonable doubt of custody of the narcotics. Defendant was charged because the State failed to disclose the evidence. 83, 10 L. Ed. 2d 215, 83 S. Ct.

Defendant was charged with 570/402(a)(2)(B) (West 2004). At 1 p.m. on December 16, 2004, he

defendant park his car in the rear of a Jiffy Lube parking lot. Defendant never entered the service station, but stood near his car, pacing back and forth while talking on the telephone, then walked to the intersection. As defendant walked down the street, Officer Briones followed him in his unmarked vehicle. After walking for three blocks, defendant stopped at a bus stop where he continuously paced back and forth while talking on the telephone. Officer Briones parked his car along the curb and

ssion of a controlled substance that the State establish a sufficient chain of custody. right to due process. Maryland, 373 U.S.

cocaine. 720 ILCS 6-1.1-1 testified that about the time of the seizure of the cocaine, defendant was in the vicinity when he saw

Exhibit F+G for grounds
6 + 7 police copies of reports go w/ this

1-05-3786

watched defendant through his rearview and side mirrors for approximately 30 minutes. Several buses stopped at the bus stop, but defendant did not board any of them.

Officer Briones further testified that as a car approached the intersection, the driver, Miguel Martinez, honked at defendant, and defendant acknowledged him. Martinez turned the wrong way down a one-way street and drove about 75 feet and into an alley where he parked his car in the first space behind a building. Defendant followed Martinez into the alley and entered the car through the passenger's door. Officer Briones exited his car and walked towards the end of the alley on the opposite side of the street so that he would not be noticed. He then crossed the street and walked towards the men in the car, looking inside the vehicle as he approached it. Officer Briones testified that he observed defendant receive from Martinez a package the size of a softball wrapped in a large, clear, plastic bag containing a white substance the officer suspected was cocaine. Officer Briones identified the bag of cocaine in court.

Officer Briones testified that when he was about seven feet away from the passenger side of the vehicle, defendant looked at him, grabbed the bag of cocaine, placed it inside the glove compartment and closed the compartment door. Officer Briones then identified himself as a police officer, ordered defendant out of the car and arrested him. Chicago police Sergeant O'Grady approached the driver's side of the car and arrested Martinez. The two officers searched the vehicle and Officer Briones saw Sergeant O'Grady go directly to the glove compartment and retrieve the large plastic bag that Martinez handed to defendant.

Officer Briones further testified that Sergeant O'Grady gave him the plastic bag recovered from the glove compartment because Officer Briones was the officer designated to inventory the evidence in this case. Officer McKenna gave Officer Briones \$453 that he recovered from Martinez. Officer Briones took the bag of suspect cocaine and the money to his car, placed the bag of drugs inside a narcotics bag, placed the money inside a separate inventory bag, and placed both of those bags inside his trunk. Officer Briones testified that the suspect narcotics and money remained in his

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constant care and control, and he returned to the police station and inventoried that evidence.

Officer Briones stated that he assigned a unique inventory number to each of the two bags and the number assigned to the narcotics bag was 10452143. He weighed the bag containing the suspect cocaine using a scale that was not calibrated and that was available for everyone's general use at the station. The scale indicated that the estimated weight of the bag of narcotics was 250 grams, which included both the plastic bag containing the cocaine and the larger evidence inventory bag. Officer Briones identified the narcotics inventory bag in court, noting that his handwriting appeared on the outside of the bag. He explained that information he wrote on the outside of the bag indicated the date of arrest, defendant's name, and a description of the item contained in the envelope. In this case, the outside of the narcotics bag stated that it contained one clear knotted bag containing a white rock-like substance of suspect cocaine. After the desk sergeant signed the bag, Officer Briones heat-sealed it and placed it inside the narcotics vault to be sent to the crime laboratory. Officer Briones also testified that he did not complete the arrest report in this case, but signed it.

Illinois State Police forensic chemist Brian Stevenson testified that on December 22, 2004, he received a sealed bag with inventory number 10452143 from Gina Wollick at the drug chemistry vault of the forensic science center. Wollick was another analyst who was designated to work at the vault that day. The center had received the bag of evidence the previous day. Stevenson acknowledged that he did not personally know where Wollick got the evidence from as he did not witness her receiving it, but he assumed she received it from the vault because cases submitted to the evidence control center from the Chicago police department are brought to the vault.

Stevenson testified that he took custody of the bag, initialed it, brought it to his work station and locked it in his storage area until he worked on it later that same day. The bag was heat-sealed and contained a white chunky substance with some powder and a knotted plastic bag. In court, Stevenson identified the same narcotics bag previously identified by Officer Briones and testified that it was in substantially the same condition as when he initially received it, and that the substance inside

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the bag appeared to be the same substance he analyzed.

Stevenson testified that he began his analysis of the evidence by examining the inventory sheet that came with it to ensure that the description on the sheet matched the substance inside the bag. The sheet indicated that the bag contained one clear plastic knotted bag containing a white rock-like substance of suspect cocaine, and Stevenson found that the substance in the bag matched that description. There was no weight indicated on the inventory sheet. Other information on the front of the evidence bag also indicated defendant's name, the location of his arrest, and the location from where the evidence was obtained.

Stevenson further testified that he opened the bag, wrote a description of the evidence on his work sheet and weighed the evidence. To weigh the substance, Stevenson placed a disposable weighing dish on his scale and zeroed the scale out so it would not record the weight of the dish. He then removed the chunky substance from the plastic bag and placed it inside the weighing dish. Stevenson found that the total weight of the substance, excluding the packaging, was 110 grams, and testing indicated that the substance was cocaine. Stevenson testified that he verifies the accuracy of his balancing scale at the beginning of each week, and the scale is calibrated by an outside company.

Chicago police Sergeant James O'Grady testified substantially the same as Officer Briones regarding the surveillance of defendant, adding that he approached the car occupied by Martinez and defendant from the alley in the opposite direction of Officer Briones. When he was six feet from the car, Sergeant O'Grady saw Martinez hand defendant a large softball-sized bag of cocaine. When he was next to the car, Sergeant O'Grady saw defendant place that bag of cocaine inside the glove compartment. The sergeant opened the driver's door and ordered Martinez out of the car while Officer Briones did the same with defendant. Sergeant O'Grady then opened the glove compartment, retrieved the bag of cocaine, and handed it to Officer Briones. Sergeant O'Grady testified that the substance in the bag was in the shape of a large chunk or rock with a substantial amount of powder cocaine on the bottom of the bag.

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Defendant testified that he drove to Jiffy Lube to have his car serviced, and because they were busy, he went inside, gave his keys to a mechanic and left his car parked in the lot. He walked about three blocks to catch a bus, and after waiting at the bus stop for 30 minutes, his friend Miguel Martinez happened to drive by and offered him a ride. Defendant got in the car, and after Martinez drove a quarter of a block, they were surrounded by three or four police cars. About eight police officers exited those cars, and defendant was arrested. Defendant denied that he was in possession of any drugs that day, and denied placing any drugs in the glove compartment. He also denied that he was arrested in a parking lot behind a building, and denied seeing police recover any drugs from Martinez's car.

The jury found defendant guilty of possession of a controlled substance. At a subsequent hearing, the trial court denied defendant's *pro se* posttrial motion alleging that trial counsel rendered ineffective assistance.

At the next hearing date, defense counsel noted that the newly generated presentencing investigation report (PSI) included an unsigned arrest report that the defense had not received prior to trial. Counsel stated "I don't believe that the [S]tate's [A]ttorney has received it either. Frankly, it looks like it was generated by the probation department." Counsel noted that the date on the report was August 22, 2005, which was four days after defendant's trial ended. This report stated that defendant was charged with possession of less than 15 grams of cocaine. The trial court continued the hearing and the prosecution said it would investigate the "new" report.

At a subsequent hearing on defendant's motion for a new trial, counsel argued that the defense had not received a copy of the unsigned arrest report charging defendant with possession of less than 15 grams of cocaine. Counsel again acknowledged that the State had not received the report either. Counsel noted that another arrest report stated that defendant was in possession of 250 grams of cocaine, and the chemist found the amount to be 110 grams of cocaine. She then argued that because a discrepancy in the amount of cocaine was an issue in this case, the jury should have heard about the

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third amount of cocaine, which would have made the offense a Class 4, rather than a Class 1, felony.

The State responded that it spoke with Officer Briones and faxed him a copy of the "new" arrest report. Officer Briones reviewed the report, stated that he had never seen it before, that he did not generate it, that he showed it to the other officers involved with defendant's arrest and none of them had generated it, and that the "P.C. number" on the report, which identifies who accessed the computer, did not belong to him or any of the officers working on this case. He noted that the arrest reports in this case were handwritten, and suggested that this "new" computerized report may have been created by an unknown person "down the road" who enters information into the computer system so that defendant's file can be accessed via a computer rather than having to find the physical file.

Based on Officer Briones' response, the State argued that the "new" arrest report was created by someone who was not involved in this case. The State noted that although a defendant is initially charged with an offense by police, such charges often are not the same as the charges brought by the State's Attorney in the indictment. The State further noted that it was undisputed that defendant was charged in the indictment with possession of over 100 grams of cocaine. The State confirmed that the handwritten arrest reports were tendered to the defense.

The trial court compared the information contained in the handwritten arrest report with that in the computerized report. The court noted that the computerized report was comprised of only one-half of a page and did not contain a narrative whereas the handwritten report contained a narrative stating that the amount of cocaine was 250 grams. The court found that there was no difference in the information contained in both reports, except that the computerized report expanded the description of the charge to state that the amount of cocaine was less than 15 grams. Based on its finding that the notation of less than 15 grams was not relevant in this case, and that the computerized report did not contain any additional information, the trial court rejected defendant's posttrial argument that failure to receive the "new" arrest report was a discovery violation.

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Defense counsel also challenged the chain of custody of the cocaine and argued that the discrepancy between 250 grams of cocaine as noted by Officer Briones on the handwritten arrest report and 110 grams as found by the chemist demonstrated that the chain in this case was not proper. The trial court recalled that the testimony showed that the bag of narcotics was heat-sealed when Officer Briones placed it in the vault at the police department and still heat-sealed when received by Stevenson at the laboratory vault, and found that the State established a clear chain of custody. The court denied defendant's motion for a new trial and sentenced him to eight years' imprisonment.

On appeal, defendant first contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to establish a sufficient chain of custody of the narcotics. Defendant argues that the evidence analyzed by the chemist did not match the evidence seized by police because there was a discrepancy in the weight of the drugs where Officer Briones testified that the evidence weighed 250 grams and Stevenson, the chemist, testified that it weighed 110 grams. Defendant also argues that there was a break in the chain of custody where Stevenson testified that he received the evidence from Gina Wollick, but there was no testimony as to where and from whom she received the evidence, and no testimony regarding the safekeeping or method of delivery of the evidence from the police vault to the forensic science center.

The State responds that a challenge to the chain of custody does not contest the sufficiency of the evidence, but instead, questions whether a proper foundation was laid for the admissibility of the evidence. The State argues that the chain of custody was properly established as the chemist received the evidence in a heat-sealed bag, and the contents matched the inventory sheet. The State notes that Officer Briones and chemist Stevenson identified the bag of narcotics at trial and argues that the weight discrepancy could be due to the different methods used to weigh the evidence.

Our supreme court had held that a challenge to the chain of custody asserts that the State failed to lay an adequate foundation for the evidence, and thus, attacks the admissibility of the evidence, not its sufficiency. People v. Woods, 214 Ill. 2d 455, 471, 828 N.E.2d 247, 257 (2005).

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Where evidence, such as narcotics, is not readily identifiable or may be susceptible to tampering, exchange or contamination, the State must establish that there was a sufficient chain of custody to render it improbable that the evidence was tampered with or substituted. Woods, 214 Ill. 2d at 467, 828 N.E.2d at 255. The State must demonstrate that the police employed reasonable protective measures to ensure that the substance they recovered from defendant was the same as that tested by the chemist and that it had not been altered. The State is not required to exclude every possibility of tampering, nor must it present testimony from every person in the chain, unless defendant produces evidence of actual tampering or substitution. Where the State has established that the evidence was not subject to tampering or substitution, and defendant has not shown actual evidence of tampering, any deficiencies in the chain of custody go to the weight of the evidence, not its admissibility. Woods, 214 Ill. 2d at 467, 828 N.E.2d at 255. Even when a link is missing in the chain of custody, where testimony that sufficiently described the condition of the evidence when delivered matches testimony describing the evidence when analyzed, the evidence is properly admitted. Woods, 214 Ill. 2d at 468, 828 N.E.2d at 255.

Here, we find that the State established a sufficient chain of custody of the cocaine recovered from defendant's possession. Testimony from the police officers showed that Sergeant O'Grady recovered the large bag of cocaine from the glove compartment of Martinez's car moments after he and Officer Briones saw defendant place the cocaine there. The testimony further showed that Sergeant O'Grady handed the bag of drugs to Officer Briones who placed it inside a special narcotics bag in the trunk of his car, took it to the police station, and inventoried it in accordance with police procedures, assigning it inventory number 10452143, and placing the heat-sealed bag in the police narcotics vault. We find that the testimony in this case demonstrated that the police took reasonable protective measures to ensure that the recovered cocaine was not tampered with or altered.

Furthermore, forensic chemist Stevenson testified that he received the narcotics bag with inventory number 10452143 from his colleague, Gina Wollick, at the vault in their laboratory and that

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it was heat-sealed when he received it. Stevenson further testified that the narcotics bag contained one clear plastic knotted bag containing a white rock-like substance of suspect cocaine, which matched the description on the inventory sheet completed by Officer Briones. Although Wollick did not appear in court and testify as to how she came in possession of the narcotics envelope, the record shows that the description of the evidence when delivered matched the description of the evidence when analyzed, and therefore, the chain of custody was sufficient and the evidence was properly admitted.

In addition, we reject defendant's argument that the chain of custody was insufficient due to a discrepancy in the weight of the substance. Officer Briones testified that he weighed the bag of narcotics, including the packaging and inventory envelope, on a general-use scale that was not calibrated, which indicated that the "estimated" weight of the bag was 250 grams. The officer noted this weight on a police report, but it was not included in his description of the substance on the inventory sheet. In contrast, Stevenson removed the substance from all of its packaging and weighed it on a scale that had been both calibrated and "zeroed-out" to account for the weight of the weighing dish, and found that it weighed 110 grams.

Although there was a discrepancy in the two weights, we do not find that such difference demonstrates evidence of actual tampering under the facts and circumstances in this case. Stevenson's determination of the weight of the substance was calculated with the utmost care and precision, and eliminated other variables including the weight of the packaging and weighing dish. The "estimated" weight determined by Officer Briones, on the other hand, was admittedly not so precise as the scale was never calibrated or "zeroed-out" and the substance was weighed inside all packaging. As stated above, Officer Briones heat-sealed the package before depositing it into the narcotics vault, and Stevenson received that same package with an identical inventory number in a heat-sealed condition, the contents of which matched the description on the inventory sheet. As there was no evidence of actual tampering, the difference in the weight went to the weight of the evidence,

RECEIVED

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

8 JAN 14 P3:34

APPEALS DIVISION
COOK COUNTY
PUBLIC DEFENDER

THE PEOPLE OF THE STATE OF ILLINOIS,

Respondent-Appellee,

v.

ROOSEVELT DAVIS,

Petitioner-Appellant.

No. 1-05-3786

ORDER

Upon consideration Petitioner-Appellant's petition for rehearing;

IT IS HEREBY ORDERED that the petition for rehearing be and the same is hereby
DENIED.

ORDER ENTERED

JAN 11 2008

APPELLATE COURT, FIRST DISTRICT


JUSTICE
JUSTICE
JUSTICE

1 IN THE CIRCUIT COURT OF COOK COUNTY
2 COUNTY DEPARTMENT - CRIMINAL DIVISION

3 THE PEOPLE OF THE) JUDGE MARGARET BROSNAHAN
4 STATE OF ILLINOIS)
5)
6)
7)
8)
9)
10 vs) No. 05 C 26724
11)
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13)
14 ROOSEVELT DAVIS) November 8, 2005
15)
16)
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19)
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21)
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23)
24)

6 Court convened pursuant to adjournment.

9 APPEARANCES:

10 MR. RICHARD DEVINE
11 State's Attorney of Cook County, by
12 MS. EMILY STEVENS
13 Assistant State's Attorney
14 for the People of the State of Illinois.

15 MR. EDWIN A. BURNETTE
16 Public Defender of Cook County, by
17 MS. STEPHANIE HIRSCHBOECK
18 MS. ROSE COSTIN
19 Assistant Public Defenders
20 for the Defendant.

21 Sharon T. McClain, CSR, RPR
22 Official Court Reporter
23 Criminal Division
24 2650 South California
Chicago, IL 60608

1 THE CLERK: Roosevelt Davis.

2 THE COURT: Good morning, sir. Both side are
3 here. This is in post trial status. There has already
4 been one motion filed by Mr. Davis for ineffective
5 assistance of counsel. That was argued and denied back
6 September 20, 2005. There are still other post trial
7 matters motions pending and it has been continued from
8 time to time for copies of the transcripts. Those have
9 been received and and everybody is ready to proceed; is
10 that correct?

11 Can we have everybody's name for the record.

12 MS. STEVENS: Assistant State's Attorney Emily
13 Stevens. S-t-e-v-e-n-s.

14 MS. COSTIN: Rose Costin, C-o-s-t-i-n, Multiple
15 Defendant Units of the Public Defender's unit.

16 MS. HIRSCHBOECK: Stephanie Hirschboeck, on behalf
17 of Mr. Davis.

18 MS. COSTIN: Mr. Davis is present in court.

19 THE COURT: Defense do you have a copy of the
20 post-trial motions?

21 MS. COSTIN: I do. Motion for new trial.

22 THE COURT: Yes. I've the Defendant's motion for
23 ineffective assistance. I am just trying to find.

24 MS. COSTIN: There is a motion for a new trial

1 which was filed on August 3, 2005.

2 THE COURT: You may proceed withh argument on your
3 motion for new trial.

4 MS. COSTIN: Judge, I filed with the court on
5 August 31, 2005 a motion for a new trial. I am not
6 going to belabor. It is actually quite lengthy in
7 laying out our points. I am asking for three things.
8 I am asking for judgment notwithstanding the verdict
9 based upon the points that were layed out. I'm also
10 asking for -- in the alternative a motion for a new
11 trial or in the alternative still for the Court to
12 consider a lesser charge because of the amount which
13 was brought up during the course of the trial. I'd
14 also like to supplement our motion for a new trial with
15 a copy entitled Chicago Police Department arrest
16 report. I'd like to supplement that and attach to the
17 motion for new trial if I may.

18 THE COURT: All right.

19 MS. COSTIN: Judge, that Chicago police arrest
20 report was contained inside of the P.T.I. that was
21 prepared after sentencing for Mr. Davis. The defense
22 never saw that titled Chicago Police Department arrest
23 report. And when we brought it to the State's
24 Attorney's attention they said they would make

1 inquiries, having not received it themselves. Judge,
2 we are asking that to be supplemented because if your
3 Honor notices it makes in the amount it lists
4 possession, less than 15 grams. Now that is a
5 non-signed report. But we did not have it in order to
6 prepare for trial. And as your Honor knows having
7 listened to the trial part and parcel, or actually the
8 large amount of our case was the amount. What was the
9 amount that was at the trial. And because of the way
10 Mr. Davis is charged, he is charged with a Class 1
11 amount of over -- between 100 and 400 grams. One of
12 the impeachment parts was that initially when he was
13 charged some of tghe arrest reports said 250 grams.
14 When it got to the lab it was 110 grams. Now we have a
15 third saying it was less than 15 grams, which makes it
16 a Class 4.

17 We didn't have an opportunity to inquire or
18 to find out who generated that report. And because of
19 that, the jury did not hear, the trier of fact did not
20 hear that third amount, which could have made a
21 difference, Judge, based on the trier of fact. We
22 believe it would have if we could have found out who
23 generated that call and called that person as a
24 witness. So we would like to supplement that. I am

1 not once again going to belabor every point in here. I
2 will reserve argument after the State. However, there
3 is one thing that is also not inside this report that
4 came to our attention yesterday. The co-defendant,
5 Miguel Martinez, was charged with the amount of
6 delivery. Charged with a Class X delivery in the
7 amount which carried between the years of 9 and 30
8 years in the penitentiary.

9 Mr. Davis, however, was charged with a Class
10 1 which carries 6 to 30 years based upon the amount of
11 drugs that was contained. Mr. Martinez by the State's
12 own version of the facts and by the charging document
13 was the main actor, the person who had more culpability
14 in this case. If we were to take the State's facts on
15 face value. Mr. Martinez also has a worse criminal
16 record than Mr. Davis. Mr. Davis as he stands before
17 you is probationable on this matter. Mr. Martinez over
18 by no stretch of the imagination was ever probationable
19 based upon those charges.

20 However, when we inquired prior to trial
21 about a reduction in charges, they would not reduce the
22 charge for Mr. Davis. That's in direct
23 disproportionality. And it bears greatly on their
24 case. Mr. Davis was not allowed or given an

1 opportunity to consider a plea agreement based upon the
2 charges. Judge, you have the rest of our motion for a
3 new trial. And with that we would rest. Reserving
4 rebuttal.

5 THE COURT: All right. State you may proceed with
6 argument.

7 MS. STEVENS: Thank you, you your Honor.

8 First of all with reference to the offer that
9 was and was not made to the Defendant. What his
10 co-defendant Mr. Martinez is offered in this case is
11 irrelevant as to what happens to Mr. Davis. I was not
12 the State's Attorney who made or did not make offers.
13 But again, Judge, it is irrelevant. So I can't testify
14 or tell your Honor what the circumstances were
15 regarding what offers were or were not made. What I
16 can tell you although again I still argue it's not
17 relevant is that Mr. Martinez's case was set for trial,
18 and there was a demand running on the last court date
19 when the State did not answer ready for trial. I don't
20 know if that has some kind of impact on what happened
21 on the last court date or not. Another State's
22 Attorney stepped up on that. But again, Judge, Mr.
23 Martinez's backgrounds is also different from the
24 Defendant's background. So as far as what happened to

1 Mr. Martinez that should not impact what happened to
2 Defendant Davis in this case. He chose to have a jury
3 trial and that's exactly what the court supplied him
4 with.

5 As for this new report that has surfaced. I did
6 speak with Officer Briones who is the main officer who
7 testified in this case. I faxed him a copy of the
8 report that counsel had provided me that was provided
9 in the P.S.I. Officer Briones did review that report.
10 And he explained to me that he has never seen that
11 report before. He did not generates it. He showed it
12 to the partners on his team on the date of this arrest.
13 They did not generate it. His explanation for how this
14 report might have come about is that the arrest or
15 computerized by somebody else down the road. The
16 arrest reports in this case were handwritten. These
17 are just computerized arrests that are plugged into the
18 computer by some unknown person in case down the road
19 somebody wants to look up Roosevelt Davis on the
20 computer and see what kind of arrest he might have in
21 the computer system. Therefore relieving a person
22 having to track down a file, a physical file for
23 Roosevelt Davis.

24 The officer said that the reports in this

1 case were handwritten and not typed into the computer.
2 He also looked at the P. C. number which is contained
3 on the bottom right-hand corner of that printout. And
4 he indicated that P. C. number which I guess is a
5 number that an officer or someone with such authority
6 needs to get into the computer, was not his P. C.
7 number and was not the number of any of his fellow
8 officers.

9 As for the amount of substance that's
10 contained in that. Again, it's our position that
11 somebody else filled out that report. Not somebody who
12 was involved in this investigation. As your Honor
13 knows, when somebody is initially charged, those
14 charges don't reflect what the State ends up indicting
15 the person for. It's just a mere charge. The State's
16 Attorney is the person who decides what the person is
17 charged with, with how much. In this case the
18 Defendant was charged with possessing over 100 grams of
19 cocaine. And there is no dispute about that, Judge.

20 As far as counsel's other allegations --

21 THE COURT: Let me stop you there. I would like
22 to address this issue of the arrest report. What the
23 defense has filed to supplement the record, it is an
24 one page document but there is only -- it's typewritten

1 on half of the page. About half of the page is blank.
2 There is no narrative whatsoever contained in this.
3 Let me ask you. You've indicated, and I want to make
4 sure defense is in agreement. Were arrest reports
5 tendered on Mr. Davis to the defense, the handwritten
6 reports that you're indicating or the traditional
7 arrest reports that we're used to seeing?

8 MS. STEVENS: Yes, ma'am.

9 THE COURT: Going to this computer generated
10 document I want to highlight. There is no narrative.
11 I want to go through it and make sure there is no
12 information in here that is different from what's
13 contained on the original arrest reports. So get out
14 the original arrest report that was tendered, please
15 and I just want to make sure that we have the same
16 information on both. So we'll see what if any impact
17 this report would have generated.

18 You talked about a P.C. number on the bottom.
19 I would wonder if that number belongs to somebody from
20 the Probation Department, the P.S.I. department.
21 Because on the left hand corner it also indicates date
22 of August 12th of 2005 at 10:42, which would indicate
23 to me that's the access number they're using to
24 generate these documents to prepare the P.S.I. So that

1 wouldn't be a Chicago Police Officer number. That was
2 simply the person putting together the P.S.I., which is
3 what turned this up.

4 On the document is the C.B. number 016036653?

5 MS. COSTIN: Yes, ma'am.

6 THE COURT: Date of arrest I am showing December
7 16, '04 at 16:10 from the 20th District.

8 MS. COSTIN: Yes, ma'am.

9 THE COURT: The I.R. Number 706684 with the name
10 of Roosevelt Davis?

11 MS. COSTIN: Yes, ma'am.

12 THE COURT: Social security 356-62-9609.

13 MS. STEVENS: Yes.

14 THE COURT: Okay. Defense. I am showing the date
15 of April 23rd of '67 and age of 37. Place of birth,
16 Illinois for the Defendant. Is that also on the
17 handwritten report?

18 MS. COSTIN: April 24.

19 THE COURT: So on the handwritten it says April
20 24th. That's the one difference. Then I am showing
21 for the sex, race, height. Male black 5-6, 170.

22 MS. COSTIN: Yes

23 THE COURT: For the other physical descriptors,
24 brown eyes, black hair, bald, medium complexion.

1 MS. COSTIN: Yes, ma'am.

2 THE COURT: For the employment I am showing
3 unemployed and that he did not resist arrest. There is
4 a N. there for that indicating no he did not resist
5 arrest. I am showing the address of arrest was 5402
6 North Western in Chicago by beat 2011.

7 MS. COSTIN: Yes, ma'am. It also says location
8 was L.

9 THE COURT: That's written on here 09 for alley.

10 MS. COSTIN: I don't believe that is on the
11 original arrest report.

12 THE COURT: So the word alley is not on the
13 original arrest report.

14 MS. COSTIN: It is.

15 THE COURT: It's in the body of the report; is it?

16 MS. COSTIN: I am looking, Judge. It is not.

17 THE COURT: The word alley is not there. Also the
18 residence address 6104 North Oakley Avenue in Chicago
19 for his residence that's on there.

20 For the arrest charges this is showing
21 possession of a controlled substance. And it's typed
22 in here 402C and it's typed in less than 15 grams. You
23 are saying that is not in the typewritten arrest
24 report.

1 MS. COSTIN: It has 250 grams powder cocaine.

2 MS. STEVENS: As far as the charges go on the
3 arrest report, it specifically says P.C.S. on 402. It
4 doesn't specify an amount.

5 THE COURT: The handwritten report says P.C.S.
6 402. The typewritten report just has it spelled out
7 more. Less than 15 grams.

8 MS. COSTIN: The narrative of the arrest report it
9 says 250 grams.

10 THE COURT: Are the names of all the arresting
11 officers that appear on this typewritten report also on
12 the handwritten report? That would be Michana Briones,
13 B-r-i-o-n-e-s, McCray, and Post, as the lockup keeper.
14 Fingerprinter, and two officers. You have that
15 information?

16 MS. HIRSCHBOECK: The back page probably shows the
17 lockup keeper.

18 THE COURT: So neither side has the back page, but
19 the two arrests officers are the same. There is nobody
20 additional. I would also note there is no narrative
21 whatsoever on this page. So based upon that one issue
22 and I am certainly going to let the State argue and
23 respond and give the defense a chance to make another
24 response. But I don't find that this computerized

1 generated half of an arrest report I would say. I
2 hesitate to call it an arrest report because there is
3 zero narrative in here whatsoever. It's not signed.
4 There is really no difference in the information other
5 than there is a word alley here. And the word alley
6 does not appear in the report, the handwritten that was
7 tendered. As to the charge it's just a typewritten
8 charge that corresponds to section 402. So I don't
9 find the less than 15 grams would have been relevant in
10 the case. And again it's not signed. Even if it had
11 been discovered and tendered, it is not signed by
12 anybody. I don't find that's compelling. It doesn't
13 contain any additional information. Post-trial motion
14 with respect to this half of a report would be
15 respectfully denied. Continue with any other argument.

16 MS. STEVENS: Judge, briefly with regards to the
17 chain of custody in this case and the amount of
18 narcotics, you've heard Officer Briones testify that he
19 estimated a weight, the weight that's contained on that
20 arrest report actually says approximate weight. While
21 the weight of the substance was lower than what he
22 approximated, we don't believe that impacts the charges
23 or what the Defendant stands convicted of at this
24 point. As far as the chain of custody goes, Officer

1 Briones did testify that he inventoried the cocaine and
2 that it was sealed. And that when he last saw it, it
3 was in a sealed condition.

4 You also heard from Chemist Brian Stevenson
5 who said when he first received that property it was
6 all in a sealed condition. And the description that
7 Officer Briones had given regarding the cocaine did
8 match what Chemist Brian Stevenson found when he opened
9 that package. If you recall the cocaine was partially
10 in a chunk and partial powder. There was both cocaine
11 chunk and cocaine powder in there. So there is no
12 discrepancy. If Brian Stevenson had noticed that the
13 description was different than what was contained in
14 that sealed envelope, then he would have noted that
15 discrepancy, Judge. Because the item had been sealed
16 to seal and we represented that evidence and there is
17 no evidence that the cocaine was ever compromised or
18 tampered with we believe we have met the proper chain
19 of custody. That that evidence did come out
20 sufficiently at trial.

21 Finally, Judge, counsel made an allegation in
22 the motion for a new trial that the Assistant State's
23 Attorney made prejudicial inflammatory and erroneous
24 statements in closing argument designed to arouse the

1 subsequent to that conversation where did the officers
2 go, what did they do. But we could not go into the
3 contents of the conversation.

4 When Officer Briones was questioned by myself
5 during direct examination, I did ask Officer Briones

6 "QUESTION: Prior to your meeting, did you and
7 other members receive information that led you to the
8 area of 5400 North Lincoln.

9 ANSWER: That's correct." The very next question.

10 "QUESTION: After you you met to discuss
11 surveillance. Where did you go specifically."

12 And that was the extent of the informant's tip
13 that came out during the evidence phase of the trial.

14 In opening close argument I stated, this is
15 page 159 -- on page 88 I stated, "The Defendant had got
16 caught because of information provided by a citizen."
17 And that sentence continued on, Judge. "That
18 information sparked an investigation." That's all that
19 was commented on by myself in opening close. That
20 statement was objected to, sustained by your Honor, and
21 your Honor instructed the jury to disregard.

22 On page 89 I stated that officers
23 investigated and went to 5400 North Lincoln to
24 investigate. That was objected to as well, and that

1 objection was overruled.

2 Finally on page 95 I stated, "This case
3 started with a citizen." And that was objected to, and
4 your Honor sustained that and told the jury to
5 disregard that.

6 I just would refer back to the Court's
7 original ruling on the motion in limine which is on
8 page 14. Your Honor stated that we can call a person a
9 confidential informant during closing arguments. And
10 you stated that you can name the person however you
11 want. In closing argument I named the person as a
12 citizen, which is true. The person is a citizen. I
13 don't believe that we went beyond the bounds of your
14 Honor's motion in limine. I believe when Officer
15 Briones was questioned that nothing regarding the
16 contents of the conversation was permitted to be heard
17 by the jury. And in closing argument we responded
18 about the investigation. And that investigation led to
19 more investigation. And that was the extent of it.

20 Judge, based on those reasons, we would ask
21 that you deny counsel's motion for a new trial.

22 THE COURT: All right. Thank you, counsel. Any
23 response?

24 MS. COSTIN: Yes.

1 Going in the reverse order. Your Honor made
2 a ruling. It was motion in liminie. That was granted.
3 It was violated twice. We objected and made a motion
4 for a new trial. Our motion is to preserve it. We
5 believe at this particular point it was a violation.
6 And you can not unring the bell. And the jury heard it
7 and because of that they were prejudiced and made a
8 ruling against Mr. Davis. That's the extent of our
9 motion and the motion -- in the motion for new trial.

10 Judge, also, as to the weight, which is key in
11 our case. Police reports some of them said it was 250.
12 Police officers said they weighed the amount. They
13 assigned a street value in the amount of \$3,000. Based
14 upon the amount they weighed. When it got to the lab,
15 how it got to the lab we're still not sure. It never
16 came out. We have no idea how it got transported from
17 the 16 through the 24. Somehow it passed through
18 several hands. Whose hands we do not know. When it
19 got there it's 110 grams. The discrepancy in weight we
20 are not talking one or two grams. The difference
21 between 250 grams and 110 grams. That's a huge amount.

22 Furthermore, Judge, I know your Honor has
23 made a ruling upon our supplemental part. But our
24 problem with this is that we did not have it in order

1 to inquire. We don't know who generated it. Indeed
2 the State does not know who generated it. But we could
3 not during the course of investigation figure out who
4 generated. If indeed that person should be called. On
5 the report it said I solemnly sincerely declare and
6 affirm the facts stated herein are accurate to the best
7 of my knowledge. Signatures on the first
8 arrestee/appearing officer/investigator. It's
9 unsigned.

10 So who did generate this report. We do not
11 know The fact it says possession less than 15 grams.
12 Somebody made that assumption and put it in the report.
13 Who. It would have been good for the jury to know that
14 there was indeed a third amount out there.

15 THE COURT: With respect to that particular point
16 on the arrest report, I do not read it that way. It
17 has the statue and under the word statue is 720
18 I.L.C.S. 570.0/402-C. And then it says description,
19 which is to me the description of the statue charged.
20 So the language is quite clearly P.C.S.-possession less
21 than 15 grams-cocaine. It wasn't a descriptor of what
22 amount was recovered in this case in particular, an
23 estimated weight. It was a statutory description.

24 MS. COSTIN: And I will go further than that for

1 you. It says it's Class 4. And it says and -- it gave
2 a felony weight and it says a Class 4. But somebody
3 had to generate that and put it in there. That's not
4 something that just popped up in the computer. Did
5 somebody think it was not that amount. I don't know
6 what drugs we are dealing with. In the normal course
7 of a case perhaps it doesn't mean anything, but in this
8 case special license we have different waits and
9 substances and not a very clear chain of evidence, of
10 course, it makes a difference. And of course it's
11 something that should have been investigated and
12 perhaps it would not have come to anything, but perhaps
13 it would have. The fact of the matter because Mr.
14 Davis did not have the opportunity to have
15 investigators go out and find out who put that in
16 there, we didn't have an opportunity to present to the
17 trier of fact. With that I rest.

18 THE COURT: By having listened to the argument of
19 all the parties, let's me address some of these issues.
20 My ruling stands with respect to the police report.
21 This just appears to be one half of a pages of somebody
22 who computerized the already handwritten arrest report.
23 There is nothing in here that to me would be different
24 than what was already tendered other than the word

1 alley. The charge itself is simply a description of
2 Section 402-C. It's not -- There is no narrative
3 whatsoever on here. No new officers whatsoever. No
4 new addresses on here. No new items on here. No new
5 descriptors for the Defendant on here. So this is
6 basically a half a page of a computerized version of
7 what was already tendered. So my ruling will stand on
8 that.

9 I would like to address one of the issues
10 raised in the post-trial motion. And that was the
11 issue of the chain of custody. I did go through my
12 notes. With respect to Officer Briones. He testified
13 that Officer O'Grady gave the bag to him. That he
14 returned to the car. He put the narcotics as well as
15 the money in an inventory bag. Took it to the 20th
16 District in the truck. That he inventoried the item.
17 Each of them got a specific inventory number. He
18 inventoried them with the date, the location, the
19 defendant's name, the description. He took the bags to
20 the front desk of the 20th District. Sergeant signed
21 off and he heat sealed it and put it into the vault.

22 Let me move over to the chemist's testimony.
23 The chemist testified between direct as well as
24 redirect to several points with respect to chain. The

1 officer testified that -- I'm sorry. The chemist said
2 that when he opened the exhibit with the narcotics he
3 took it out. It was People's Exhibit Number 4. The
4 bag was heat sealed with the white chunky substance.
5 And he testified the evidence was in the same condition
6 on the stand as when he initially got it. He talked
7 about that on redirect he said when he got the evidence
8 from the vault the bag was sealed. And after he tested
9 it he indicated he resealed it and put initials over
10 the seal. Based upon the direct and more specifically
11 the redirect where we got the testimony that once he
12 received it from the vault it was sealed, I feel that
13 the State has established a clear chain of custody.
14 Briones said it was heat seal when it went to the
15 vault. And the chemist told us when he got it from his
16 boss, it also was in the same heat sealed condition.
17 So as to that point your motion is going to be denied.

18 Also looking at the evidence in it's totality
19 based upon all the cross examination, the trial, your
20 motion for an A J.N.O.V. would be respectfully denied.
21 Specifically also with respect to chain of custody the
22 motion would be specifically denied.

23 With respect to the issue as to the
24 co-defendant, I also was not on this case previously

1 where the co-defendant was involved and charged with
2 delivery of a controlled substance. I don't know what
3 the complexity or the specific facts, or any proof,
4 problems the State may have had with respect to the
5 co-defendant. The fact that the co-defendant got his
6 case reduced on the date of trial does not have any
7 bearing on this particular case. So your motion based
8 upon that reason as well would be denied.

9 The last thing I would like to address
10 specifically is the allegation of the violation of the
11 motion in limine. I don't believe the State violated
12 the motion in limine on its face. However, I did feel
13 when the State made a couple references during closing
14 argument they were using the C.I. to buttress the
15 contents of whatever that conversation might have been
16 although contents of the conversation never came out.
17 I feel the way they used it violated the spirit of my
18 motion in limine ruling. However, I did sustain those
19 objections, told the jury to disregard. And I feel it
20 was cured at that time.

21 Based upon those reasons I have considered
22 all of the other reasons elicited but not argued by the
23 defense. Your motion for a new trial will be
24 respectfully denied.

1 Are both sides ready to proceed to
2 sentencing.

3 MS. STEVENS: Yes.

4 THE COURT: State, go forward with aggravation,
5 please. Before that both sides have copies of the
6 pre-sentence investigation?

7 MS. STEVENS: Right, Judge. Before we proceed
8 there is one amendment to the P.S.I.

9 THE COURT: Okay. Why don't you check on that.

10 (Discuss had off the record and the
11 cased was passed and recalled.)

12 THE CLERK: Roosevelt Davis.

13 THE COURT: State you indicated you would like to
14 make a motion to amend the P.S.I. Go ahead.

15 MS. STEVENS: On page 3 it list the Defendant's
16 prior convictions. However, missing from those
17 convictions is an armed robbery conviction, a Class X
18 conviction which is actually cited on the background
19 which is also attached to the P.S.I. That would be for
20 case number 87 C.R. 943. The Defendant was the 03
21 Defendant on that case. He was convicted or pled
22 guilty on 8-24-87 and was sentenced to eight years
23 I.D.O.C. by Judge Schiller on October 7th of 1987. I
24 do have a certified copy of that conviction if your

1 Honor wants that for your file.

2 THE COURT: Okay.

3 THE COURT: With that amendment any other
4 amendments?

5 MS. STEVENS: No other amendments, Judge.

6 THE COURT: All right. You may proceed with
7 aggravation.

8 MS. STEVENS: Judge, just briefly in aggravation.
9 In reading the P.S.I. for Defendant Roosevelt Davis, it
10 becomes clear that Mr. Davis grew up he was afforded
11 many opportunities in life. He loved his mother. He
12 loved his father. He had good relationships with his
13 siblings. But even with all of those benefits and all
14 of those good relationships, he still did not abide by
15 the laws of this state, Judge. You can see on page 3
16 that he has a significant background, an '02 conviction
17 for which he received two years and ten months by Judge
18 Schreier for a theft. A disorderly conduct, a
19 possession case in which he got 21 days Cook County
20 Department of Corrections. A '93 conviction for
21 possession of a controlled substance for which he got 3
22 years probation. A '84 conviction for which he
23 received two years probation for another theft case.
24 And then of course the armed robbery conviction for

1 which he received 8 years that we just informed your
2 Honor of. That the Defendant was convicted of in 1987.
3 He has significant background, Judge. An armed
4 robbery, theft, drug charges. And and he has been
5 given probation three times. He's been sent to the
6 penitentiary at the most eight years, but the last time
7 he was sent there it was for two years and ten months
8 by Judge Schreier.

9 It's also important to note that on page --
10 within this P.S.I. I believe the top of page 3 the
11 Defendant tells the probation officer that he was
12 arrested a few times as a juvenile, but denies having
13 any adjudication. Well, he was arrested more than just
14 as a juvenile. In fact we couldn't find any juvenile
15 adjudication. They are all convictions when he was an
16 adult. There was a significant amount of cocaine in
17 this case. We would argue that an aggravating factor
18 is that that amount of cocaine is not commensurate with
19 personal use. That it would be to sell on the the
20 street although he was not charged with the intent to
21 deliver it. And based on his background, we believe
22 that the Defendant deserves a significant amount of pen
23 time. Minimum being 6 years based on the amount in
24 this case. We would ask for above the minimum.

1 THE COURT: All right. Thank you. Defense.

2 MS. COSTIN: Judge, you have the P.S.I. in front
3 you. Mr. Davis is 38 years old. The case of the armed
4 robbery he was 17 years old at the time. The charge
5 for which he is charged with right now is probationable
6 based upon his background, even with the amount. He
7 can get probation. And as your Honor knows from the
8 P.S.I. he makes it through the probation, they have
9 been satisfactory -- probation has been terminated
10 satisfactory on more than one occasion. Judge, twice
11 actually. I'd like to go correct. He got probation
12 twice. Judge, he is married. He has a 17 year old
13 daughter now that he would like to get back to because
14 she is having some problems with incarceration of her
15 father. He also -- his wife runs an insurance company
16 which he helps out. It's her insurance company. It's
17 a family business, however. He is the one that answers
18 the phones. He is the one that runs the household. He
19 is the one that makes sure his daughter gets to school.
20 He is the one that does the books sometimes for her.
21 He is the one -- it's a family run business, even
22 though she is the principal bread winner and it's her
23 business.

24 Judge, Mr. Davis who stands before you -- and

1 the penitentiary is always there. I ,eam give him a
2 chance at probation. That's what we are asking at this
3 point and time. It's a possession case. We are asking
4 for you to give him probation.

5 THE COURT: All right. Thank you, counsel. I do
6 agree that it's a possession case. I am not going to
7 take into account any element of intent to deliver.
8 That wasn't the charge. It wasn't presented to the
9 jury. I didn't hear any evidence at all intent to
10 de;overu. So the charge is straight possession? That
11 is all I am going to consider.

12 However, based upon the Defendant's background,
13 your request for probation would be respectfully
14 denied. It is a straight possession charge. However,
15 it is a serious charge. Based upon the Defendant's
16 background -- before I impose sentence I will say I
17 have considered all statutory factors in both
18 aggravation and mitigation. My review of my notes of
19 the trial as well as my recollection of the trial,
20 argument of all the attorney. And let me ask you Mr.
21 Davis is there anything you wish to say before I impose
22 sentence.

23 THE DEFENDANT: Yes. First of all I want to say I
24 really can't understand how these officers just got up

1 there and lied about the fact I knew what was in that
2 car. I had no idea Mr. Martinez had drugs in his car.
3 From the -- it just hurts me because of the fact the
4 State pursued this case knowing the lies the officer
5 perpretrated to causes me to be here. Now I have to
6 ask you to be merciful on the fact I had no idea this
7 guy had drugs in his car. And for me being here this
8 entire year in the county took away from me being with
9 my family. The relationship me and my step-daughter
10 had we don't have that. I lot a lost of things that I
11 worked legally worked hard for just because I just
12 happened to be a receipient of other crimes in my
13 background. I have been away from being arrested for
14 years. Even with this '87 armed robbery that the State
15 brought up from the time I left the penitentiary in
16 1990, it was 12 years before I was even arrested again
17 let alone convicted. I just don't feel like it's
18 right. I didn't know what this guy had in his car.

19 THE COURT: Thank you for your comments, sir.
20 Based upon my review of the testimony as well as the
21 jury's verdict, considering the Defendant's statements
22 as well as all the other factors in the case, my
23 sentence in this case is going to be eight years in the
24 Illinois Department of Corrections. Credit for how

1 much time, defense?

2 MS. COSTIN: It will have to be calculated.

3 THE COURT: You do have the right to appeal. You
4 want to an appeal the judgment and conviction you must
5 file within 30 days from today's date a motion to
6 appeal. If you desire to challenge any part of the
7 sentence or sentence hearing, you must file prior to an
8 appeal a motion to reconsider the sentence or any
9 challenge to the sentence hearing within 30 days of
10 today's date. This motion must be in writing and must
11 set for all of the issues or claims of error about the
12 sentence or the sentence hearing. If you can't afford
13 a copy of the transcript of the sentence hearing it
14 will be provided for you. If you can't afford an
15 attorney one will be appointed to assist upi om the
16 appeal or motion to reconsider the sentence. If that
17 notice of appeal or motion to reconsider is not filed
18 within 30 days of today's date, you will lose the right
19 to appeal and to challenge your sentence. If the
20 motion to reconsider sentence is denied and you still
21 desire to appeal, you must request the clerk to file a
22 notice of appeal within 30 days of the date that the
23 motion to reconsider was denied. Any issue or claim of
24 error about the sentence imposed or any part of the

1 sentence hearing you fail to raise in the written
2 motion will not be considered by the Appellate Court.
3 Do you understand that, sir?

4 THE DEFENDANT: Sure do.

5 MS. COSTIN: At this time we make a motion to
6 reconsider the sentence of eight years Illinois
7 Department of Corrections. We file with a written
8 motion.

9 THE COURT: Your motion to reconsider will be
10 denied. It will be filed stamped and noted for the
11 record.

12 MS. COSTIN: I will have a notice of appeal ready
13 for your Honor to sign.

14 THE COURT: Okay.

15 MS. COSTIN: Let me figure out the credit.

16 MS. STEVENS: We would be asking for statutory
17 fines, fees, and costs.

18 MS. COSTIN: We are objecting to that? He is
19 indigent, obviously, and will be unemployed for awhile.

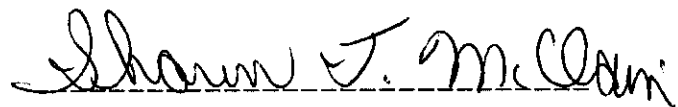
20 THE COURT: Okay.

21 THE COURT: Credit for 313 days.

22 (Which were all the proceedings had
23 in the above-entitled caue.)
24

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT -- CRIMINAL DIVISION

I, Sharon T. McClain, an Official Court Reporter
for the Circuit of Cook County, Criminal Division, do
hereby certify that I reported in shorthand the report
of proceedings had on the hearing in the above-entitled
cause; that I thereafter caused the foregoing to be
transcribed into typewriting, which I hereby certify to
be a true and accurate transcript of proceedings had
before the Honorable Margaret Brosnahan, Judge of said
court.

A handwritten signature in cursive script, reading "Sharon T. McClain". The signature is written in dark ink and is positioned above the printed name and title.

Sharon T. McClain, CSR, RPR
Official Court Reporter

1 THE COURT: Sustained.

2 BY MS. COSTIN:

3 Q. Mr. Davis was at the bus stop?

4 A. That's correct.

5 Q. And you parked your car?

6 A. Yes, I did.

7 Q. Now you were approximately 50 feet away from
8 the bus stop?

9 A. Approximately.

10 Q. And you were on Western?

11 A. That's correct.

12 Q. Or on Balmoral?

13 A. Western.

14 Q. You saw another vehicle come up?

15 A. That's correct.

16 Q. Now you testified today that that vehicle was
17 a Mercury Mystique?

18 A. That's correct.

19 Q. Do you remember testifying previously at the
20 Grand Jury?

21 A. Yes, I do.

22 Q. And that was in January of 2005?

23 A. That's correct.

24 Q. Less than a month after this occurred?

1 A. That's correct.

2 Q. Page 3.

3 And you were asked if Mr. Davis pulled up, a
4 van pulled up, Mr. Davis got into a van?

5 MS. STEVENS: Objection.

6 THE COURT: Sustained.

7 BY MS. COSTIN:

8 Q. Yes, you were asked, Line 22,

9 "And did you observe Defendant Davis standing
10 on the corner of that location for approximately
11 15 minutes before a van pulled up, which was driven by
12 Defendant Martinez?"

13 And you answered, "That's correct"?

14 A. That's correct.

15 Q. Did you not testify to that at the Grand
16 Jury?

17 A. Yes, I did.

18 Q. Okay. And were you also asked, "Did
19 Defendant Davis then enter that van on the passenger
20 side?"

21 And your answer was, "Yes, he did"?

22 A. That's correct.

23 Q. Now you say today that vehicle is a Mercury
24 Mystique?

1 A. That's correct.

2 Q. So we are clear, the Mercury Mystique you are
3 talking isn't owned by Mr. Davis?

4 MS. STEVENS: Objection.

5 THE COURT: You may tell us if you know that based
6 on your investigation, sir.

7 THE WITNESS: I did not run the plates, so I
8 couldn't tell you if it came back to him.

9 BY MS. COSTIN:

10 Q. It wasn't driven by him?

11 A. No.

12 Q. You saw this vehicle come up and the person
13 inside of it honked at Mr. Davis?

14 A. That's correct.

15 Q. You testified it turned on Balmoral going
16 west?

17 A. That's correct.

18 Q. Okay. Did you give the driver, just out of
19 curiosity, a traffic ticket for going the wrong way?

20 A. No.

21 Q. You said it went in an alley?

22 A. That's correct.

23 Q. And then you got out of your car?

24 A. That's correct.

1 Q. Okay. And you walked back past the vehicle?

2 A. Which vehicle?

3 Q. You are saying passed your vehicle first?

4 A. That's correct.

5 Q. And then you turned the corner?

6 A. Onto Balmoral, that's correct.

7 Q. So you are on Balmoral now?

8 A. That's correct.

9 Q. Where does Sergeant O'Grady come from?

10 A. Where? He essentially was on the driver's
11 side.

12 I don't know where he was parked before that.

13 Q. Did you call him?

14 A. Call him personally?

15 Q. Did you call him to come?

16 A. No.

17 Q. He just showed up?

18 A. No, we were on constant radio contact.

19 Q. And once again, we have no record of the
20 conversation, on a transcript? We have no transcripts
21 or anything showing that?

22 A. No.

23 Q. So you are walking down; did you call him to
24 go over or did anybody else call him to go over there

1 after the car parked?

2 A. I don't recall.

3 Q. Now it's approximately 250 feet to the alley?

4 MS. STEVENS: Objection. From where?

5 BY MS. COSTIN:

6 Q. From the bus stop?

7 THE COURT: You may answer that, sir, if you know.

8 THE WITNESS: I don't know.

9 I don't think, no, it's not that far.

10 BY MS. COSTIN:

11 Q. How far was it from your car to the bus stop,
12 50 feet?

13 A. No, I believe I said it was about 125 feet.

14 Q. No, from your car to the bus stop?

15 A. Oh, from the bus stop.

16 Oh, I said approximately 50 to 75 feet.

17 Q. And then from your car to the alley is
18 another 125 feet from the bus stop -- if you were from
19 the bus stop -- excuse me.

20 If I may.

21 THE COURT: You may.

22 BY MS. COSTIN:

23 Q. Officer, you are parked on Western?

24 THE COURT: Indicating for the record you are

1 using Exhibit No. 5 which was the map for
2 identification.

3 MS. COSTIN: Thank you, Judge.

4 BY MS. COSTIN:

5 Q. You are parked on Western?

6 A. That's correct.

7 Q. And it's approximately 50 feet to the bus
8 stop?

9 A. Approximately 50 to 75 feet, yes.

10 Q. And the bus stop is across the street?

11 A. That's correct.

12 Q. So you were approximately -- you weren't
13 standing right on the corner of Western, were you?

14 A. I wasn't standing.

15 Q. I mean, parked on the corner of Western?

16 A. I was right on the corner, yeah.

17 Q. So then you have how much between you and the
18 corner of Western, Balmoral and Western?

19 A. I was probably only like a couple feet from
20 the corner.

21 Q. This is 50 feet across the street?

22 A. Toward the bus stop.

23 Q. And then the bus -- from the bus stop to the
24 alley is approximately 125 feet?

1 A. I'd say about that.

2 Q. So about 175 feet, would that be fair?

3 A. Yeah.

4 Q. Okay. Now as soon as that car parked, you
5 got out of your car?

6 * A. No.

7 Q. You waited a while?

8 A. I didn't exit my vehicle until the Defendant
9 got into the Ford -- or the Mercury Mystique.

10 Q. Now from this Mercury Mystique, 250 grams of
11 cocaine were recovered?

12 A. That was the estimated value.

13 Q. That was what you --

14 A. Or the estimated amount.

15 Q. -- the weight you estimated was 250 grams?

16 A. That's correct.

17 Q. And it was one inventoried item?

18 A. Can you ask that question again.

19 Q. One item was inventoried?

20 A. No, there was more items.

21 Q. One item -- excuse me -- one inventoried item
22 of cocaine?

23 A. That's correct.

24 Q. None came from Mr. Davis' person?

1 A. The narcotics?

2 Q. Right.

3 A. It was in his possession.

4 Q. None came from his person when it was taken
5 out of the car?

6 A. No.

7 Q. And there was no large amount of money taken
8 from Mr. Davis?

9 A. No.

10 Q. And you sent that one item to the Crime Lab?

11 A. That's correct.

12 Q. The one item of cocaine.

13 Now when you recovered that item, were you
14 careful to preserve any prints on it?

15 A. No.

16 Q. Did you send it down for prints,
17 fingerprints --

18 A. No.

19 Q. -- so these folks, no?

20 How about did you fingerprint the glove
21 compartment that you say you saw?

22 A. No, I did not.

23 Q. You didn't take any pictures, by the way, of
24 this?

1 A. No.

2 Q. You didn't take a picture of where the car
3 was in the alley supposedly?

4 A. No.

5 Q. Okay. And Mr. Davis was searched?

6 A. That's correct.

7 Q. Okay. His cell phone was recovered?

8 A. I don't know.

9 Q. Did you search Mr. Davis?

10 A. I performed a protective pat down on him.

11 Q. So you don't know if his cell phone was
12 recovered?

13 A. No, I do not.

14 Q. Did you ask?

15 A. No.

16 Q. Did you ever go and try to find out who he
17 was calling by using -- subpoenaing the records for his
18 cell phone?

19 A. No.

20 Q. How about Mr. Martinez? Did you get his cell
21 phone?

22 A. I don't recall.

23 Q. So you never got Mr. Davis's cell phone and
24 hit redial just to find out?

1 A. No.

2 Q. No, you didn't do it?

3 A. No, I did not.

4 Q. How about that car that was parked in the
5 Jiffy Lube, did you go back and get it?

6 A. Are we talking about Mr. Davis' car?

7 Q. Right.

8 A. No.

9 Q. It was never inventoried?

10 A. No.

11 Q. Searched? Never got a warrant for it?

12 A. No.

13 Q. Don't know what happened to it?

14 A. No.

15 Q. You called for a tow truck for the other car
16 though, for the car in the alley?

17 A. The Mystique?

18 Q. The vehicle in the alley?

19 A. It wasn't -- it was parked legally in the
20 parking spot. It was not in the alley.

21 Q. But did you call for a tow truck and that car
22 was towed?

23 A. It was towed from the station, yes.

24 Q. How did it get to the station?

1 A. An officer drove it in.

2 MS. COSTIN: If I could have a moment, please.

3 THE COURT: You may.

4 (SHORT PAUSE.)

5 BY MS. COSTIN:

6 Q. Just a couple more things.

7 You said when I asked you about the 250 grams
8 of cocaine, that you said it was an estimate?

9 A. That's correct.

10 Q. But you weighed it?

11 A. That's correct.

12 Q. So it wasn't an estimate, it was 250 grams?
13 You wouldn't write something down it didn't
14 say?

15 A. No, we got --

16 Q. It said 250 grams?

17 A. That's correct.

18 Q. On that scale?

19 A. That's correct.

20 Q. And you didn't bring that scale here today,
21 did you?

22 A. No, I did not.

23 Q. And these pictures, so we are clear, you
24 didn't take these, nor did any of your brother officers

1 take these?

2 A. No.

3 Q. So you don't know what time these pictures
4 were taken?

5 A. No, I do not.

6 Q. Or when?

7 A. No.

8 Q. So in December, there could have been snow on
9 the ground?

10 A. Yes.

11 Q. So these pictures really don't accurately
12 depict what you saw?

13 THE COURT: With respect to what, Counsel?

14 BY MS. COSTIN:

15 Q. With respect to how it was on the date that
16 you arrested Mr. Davis?

17 THE COURT: I mean, the weather conditions?

18 MS. COSTIN: Weather conditions?

19 THE WITNESS: It could have been, yes.

20 BY MS. COSTIN:

21 Q. It could have been what, Officer?

22 Do they accurately depict how the weather was
23 when you arrested Mr. Davis?

24 A. Well, I don't recall.

1 There wasn't -- I don't recall if there was
2 snow on the ground, if that's what you are asking.

3 Q. And there is cars in these parking lots that
4 they have showed you for People's Exhibit No. 1 and 2.
5 Those weren't the same cars that were there?

6 A. It could have been.

7 I'm not sure. I don't recall.

8 Q. Going back just one quick question, when you
9 assigned a street value, when you weigh cocaine, it's
10 important?

11 MS. STEVENS: Objection.

12 BY MS. COSTIN:

13 Q. Isn't is important when you weigh --

14 THE COURT: Let her finish the question.

15 Let her finish the question.

16 BY MS. COSTIN:

17 Q. When you weigh the cocaine, it's important?

18 THE COURT: All right. Overruled.

19 Would you consider that to be important?

20 THE WITNESS: Yes.

21 BY MS. COSTIN:

22 Q. To a point were you even assigned a street
23 value?

24 MS. STEVENS: Objection.

1 MS. COSTIN: Side bar.

2 THE COURT: All right. We will have a side bar.

3 (WHEREUPON, THE PROCEEDINGS WERE
4 HAD OUTSIDE THE PRESENCE OF THE JURY
5 AND THE COURT REPORTER .)

6 THE COURT: You may proceed.

7 BY MS. COSTIN:

8 Q. Who assigned the street value?

9 A. Who?

10 Q. For the cocaine, the 250 grams of cocaine,
11 you weighed it?

12 A. That's correct.

13 Q. And you told somebody about it?

14 A. Yes.

15 Q. And you made up a report?

16 A. That's correct.

17 Q. And you put in the street value --

18 MS. STEVENS: Objection, which report?

19 BY MS. COSTIN:

20 Q. The supplemental report?

21 A. That's correct.

22 Q. Okay. And you came up with a number, an
23 amount, based on that 250 grams of cocaine?

24 A. As far as the value?

1 Q. Yes, the street value.

2 A. The street value is determined by the City of
3 Chicago.

4 Q. Okay. And who gave you that value?

5 A. There is a chart.

6 Q. Okay. So you took 250 grams of cocaine and
7 you walked over to the chart, and you went down the
8 list, and you found out what the street value was, is
9 that correct?

10 A. That's correct.

11 Q. And you assigned it a value based upon what
12 you weighed?

13 A. The weight, yes.

14 Q. When you arrested Mr. Davis, he didn't resist
15 arrest?

16 A. No.

17 Q. He didn't run?

18 A. No.

19 MS. COSTIN: Thank you.

20 THE COURT: All right. Thank you, Counsel.

21 Any redirect, State?

22 MS. STEVENS: Briefly, Judge.

23

24

1 R E D I R E C T E X A M I N A T I O N

2 BY MS. STEVENS:

3 Q. Officer, the Defendant didn't run when he saw
4 you, but he did try to hide the cocaine, didn't he?

5 A. That's correct.

6 Q. Had you ever met the Defendant before?

7 A. No, I did not.

8 Q. And had you ever met the Co-Defendant,
9 Mr. Martinez, before December 16th of 2004?

10 A. No.

11 Q. And do you know whether or not any of your
12 partners had ever met either one of those Defendants
13 before?

14 A. No.

15 Q. They had not ever met them before?

16 A. No, they had not.

17 Q. Now, Counsel asked you about the weight of
18 this cocaine.

19 When you placed this bag of cocaine on the
20 scale, it was in the bag that you recovered it in, is
21 that correct?

22 A. That's correct.

23 Q. You didn't take the cocaine out of that bag
24 and place it on the scale, did you?

1 A. No.

2 Q. And that bag that the cocaine was originally
3 in was also in the larger evidence bag that you
4 identified today in court, wasn't it?

5 A. That's correct.

6 Q. And so when you got that weight, it was with
7 all of these bags around it, is that correct?

8 A. That's correct.

9 Q. Okay. And again, you did testify that that
10 is not an actual calibrated scale, is that correct?

11 A. That's correct.

12 Q. Now, Counsel asked you about prints.

13 Why didn't you take the prints off of the
14 bag? Why didn't you get prints in this case?

15 A. Well, at that time, we didn't feel we needed
16 prints.

17 We saw that the actual cocaine in both of the
18 Defendants' possession.

19 Q. And when do you need to get prints in a case?

20 MS. COSTIN: Objection, Judge.

21 THE COURT: Sustained as to the general form of
22 the question.

23 You can ask him specifically why it wasn't
24 done here.

1 BY MS. STEVENS:

2 Q. Is it fair to say you did not get the prints
3 in this case because you knew who possessed it?

4 MS. COSTIN: Objection, Judge. That's for the
5 jury.

6 THE COURT: Overruled.

7 You may answer.

8 Is that why you didn't get it?

9 THE WITNESS: Yes.

10 BY MS. STEVENS:

11 Q. You also saw that cocaine in the possession
12 of Mr. Martinez too, is that correct?

13 A. That's correct.

14 Q. Now, the reports that were completed in this
15 case, are those word-for-word recitations of what
16 occurred that day or are they summaries?

17 A. It's a summary.

18 Q. Now Counsel asked you about your testimony at
19 the special Grand Jury that occurred back on
20 January 20th of 2005.

21 Have you ever testified in front of a Grand
22 Jury before?

23 A. Yes, I have.

24 Q. And when you testify in front of a Grand

1 Jury, somebody is asking you questions, is that
2 correct?

3 A. That's correct.

4 Q. And generally are those questions yes or no
5 questions?

6 MS. COSTIN: Objection, Judge.

7 THE COURT: Sustained.

8 BY MS. STEVENS:

9 Q. Well, Counsel had asked you about a question
10 where you were asked about a van.

11 You never said the word "van," is that
12 correct?

13 A. That's correct.

14 Q. In fact, the word "van" was stated in a
15 question that was posed to you, is that correct?

16 A. That's correct.

17 Q. Now, you had testified earlier about several
18 reports that were generated in this case, is that
19 right?

20 A. That's correct.

21 Q. And in any of those reports, did you ever say
22 anything about a van?

23 A. No.

24 MS. COSTIN: Objection, Judge.

1 THE COURT: Overruled.

2 BY MS. STEVENS:

3 Q. In fact, all of those reports, this was
4 described as a Mercury Mystique or sedan, is that
5 correct?

6 A. That's correct.

7 Q. Now why didn't you tow the car that the
8 Defendant had driven to the Jiffy Lube?

9 A. It wasn't a part of the narcotics
10 transaction.

11 Q. And the cell phones that Counsel asked you if
12 these phones were in the car, Mercury Mystique, would
13 they have been left in the car and not inventoried?

14 A. That's correct.

15 Q. Officer, Counsel also asked you about your
16 report where you stated in your report that the
17 Defendant stood on the corner of Balmoral and Western
18 for about 15 minutes.

19 You corrected her earlier and said that was a
20 typo, and it was really Balmoral and Lincoln, is that
21 correct?

22 A. That's correct.

23 Q. And, in fact, in the next line in your
24 report, it states that the subject then began walking

1 east on Balmoral to Western, is that correct?

2 A. That's correct.

3 Q. Is it fair to say that it would be impossible
4 for Defendant to stand on Balmoral and Western and then
5 walk to Balmoral and Western?

6 A. That's correct.

7 MS. STEVENS: Nothing further.

8 THE COURT: Okay. Thank you.

9 R E C R O S S - E X A M I N A T I O N

10 BY MS. COSTIN:

11 Q. You go to the Grand Jury, and they asked you
12 questions?

13 You go to the Grand Jury and they asked you
14 questions?

15 A. Yes.

16 MS. STEVENS: Objection. Who?

17 THE COURT: In this case, referring back to the
18 specific date, what was the date of Grand Jury
19 transcript?

20 BY MS. COSTIN:

21 Q. January 2005, on January 20th, 2005, did you
22 go to the Grand Jury and they asked you questions?

23 MS. STEVENS: Objection to the form. Who?

24 THE COURT: Overruled.

1 Go ahead.

2 THE WITNESS: That's correct.

3 BY MS. COSTIN:

4 Q. And you have been to the Grand Jury before on
5 many occasions?

6 A. That's correct.

7 Q. You have been an officer 11 years?

8 A. That's correct.

9 Q. You know you don't have to just answer yes or
10 no?

11 A. In the Grand Jury, I have testified there I
12 think hundreds of times, and I don't think I have ever
13 never -- I have always answered yes or no.

14 Q. When someone puts information out there that
15 you believe is wrong, you would correct them?

16 A. Yes.

17 Q. And in this case, they asked you about a van,
18 and you said that it was a van?

19 A. That's correct.

20 Q. And you did it on more than one occasion?

21 A. That's correct.

22 Q. You didn't correct them?

23 A. No.

24 Q. And this phone she asked, the State's

1 Attorney just asked you about, she asked if they were
2 left in the car, but -- well, you towed that car,
3 right?

4 A. That's correct.

5 Q. And that car was inventoried?

6 A. No.

7 Q. You didn't inventory the car?

8 A. There is no inventory number that goes to a
9 towed car.

10 Q. So -- but it was towed, and it was towed to
11 the police station?

12 A. No.

13 Q. It wasn't towed to the police station?

14 A. It was driven.

15 Q. Driven.

16 And then it was towed from the police
17 station?

18 A. That's correct.

19 Q. Okay. Now, did you go through it?

20 A. I did not.

21 Q. Okay. They took stuff out of it?

22 MS. STEVENS: Objection.

23 THE COURT: Sustained.

24 BY MS. COSTIN:

1 Q. They took drugs out of it?

2 MS. STEVENS: Objection.

3 THE COURT: Sustained as to the form of the
4 question.

5 Let's confine it to your response to her most
6 recent redirect.

7 BY MS. COSTIN:

8 Q. Well, the phones, you never bothered to look
9 to see if the phones were in there?

10 MS. STEVENS: Objection.

11 THE COURT: Asked and answered.

12 He said he did not go through the car.

13 BY MS. COSTIN:

14 Q. Did anybody, to your knowledge, any of your
15 brother officers?

16 A. Yes.

17 Q. Do you know if they found them?

18 A. I don't know.

19 Q. And this scale, you are an experienced
20 officer of 11 years, and you put an inventory number on
21 this?

22 A. I generated an inventory number.

23 Q. Okay. And this is what got to the -- sent to
24 the Crime Lab?

1 A. That's correct.

2 Q. Okay. And this is rock cocaine?

3 A. It's cocaine.

4 Q. Rock cocaine?

5 THE COURT: Sustained.

6 MS. STEVENS: Objection.

7 THE COURT: Sustained.

8 BY MS. COSTIN:

9 Q. Officer, when you inventoried, did you put
10 down that it was narcotics, one clear plastic-knotted
11 bag containing a rock white-like substance?

12 A. What was -- could you repeat.

13 Q. You inventoried this under 1452143, and you
14 when you sent it to the Crime Lab, you said it was one
15 narcotic drug containing one clear plastic bag
16 containing a white rock-like substance, suspect
17 cocaine?

18 A. That's correct.

19 Q. And that's what you wrote down in your report
20 or your inventory?

21 A. That's correct.

22 Q. Rock-like cocaine, and it was in one clear
23 plastic bag?

24 A. That's correct.

1 Q. Now the scale she asked you about, the scale,
2 it's not calibrated?

3 THE COURT: Sustained. I have already heard.

4 | Anything about the scale I haven't heard?

5 MS. COSTIN: Your Honor, I think you have heard
6 all about it.

7 THE COURT: Okay. Anything further, Defense?

8 MS. COSTIN: No. Thank you.

9 THE COURT: All right. Thank you.

10 State, anything further that I haven't heard?

11 If I have already heard it once, I don't need
12 to hear it a third time, so think carefully.

13 MS. STEVENS: Nothing, further Judge.

14 THE COURT: All right. Thank you.

15 Thank you, sir. You are excused.

16 (WITNESS EXCUSED.)

17 THE COURT: Ladies and gentlemen, that's going to
18 conclude the testimony that we are going to hear on
19 today's date.

20 What I would like you to do, come back to
21 this room tomorrow 10:30 in the morning.

22 Now when you get here, you have to walk
23 through the courtroom. There may be people in the
24 gallery. It's likely there's proceedings that will be